

Wm. Halliwell
and Roy

Natura Breuium in
Englishe newly corrected:

with diuers additions of sta-
tutes, Booke cases, Pleees
in *Abatement* of the sayed
Writts, and their Decla-
rations, and Barres to
the same added and
put in their places
most conuenient,
(***)

Wm. Halliwell
Wm. Halliwell

24.
Cum Priuilegio ad im-
primendum solum.
(.:.)

Rec. July 2, 1891

A writ of right patent, and a writ of right close. A writ of right patent shall be first brought in the Court of the Lord, of whom the land is holden (if it be holden of any other then the king) And if it be holden of the king, then it shall be brought in the court of the king. And know ye, that this writ may be removed out of the Court of the Lord into a County by a Tolt, and out of the Countie to the common Bank by a Pone, if the demandant that will. And for that, this clause is put in the Writ of Right patent, & nisi feceris, vicecomes talis comitatus faciet &c. For the writ shall be all times in the custodie of the demandant, for that, that if the lord & the shirife wil not to him do right, he may remove the plea into the common Bank, as is aforesaid, not putting cause in the Pone. But in case that it be removed out of the countie into the common Bank by a Pone at the suit of the tenant, it behoueth to put the cause in the Pone, as it appeareth plainly in the Register. And also the said plea may be removed out of the Court of the Lord immediatly to the common bank by a Recordare in cause, at the suit of the tenant. And know ye, that this writ hath but ij. issues, that is to say, ioyning the miles upon the mere, & that is, to put him selfe in the great assise of our soueraigne Lord the king, or to ioyne batail, and that shall be in the election



L It is sayed that there is a Writ of Right patent, and a writ of right close. A writ of Righte patent shall be first brought in the Court of the Lord, of whom the land is holden (if it be holden of any other then the king) And if it be holden of the king, then it shall be brought in the court of the king. And know ye, that this writ may be removed out of the Court of the Lord into a County by a Tolt, and out of the Countie to the common Bank by a Pone, if the demandant that will. And for that, this clause is put in the Writ of Right patent, & nisi feceris, vicecomes talis comitatus faciet &c. For the writ shall be all times in the custodie of the demandant, for that, that if the lord & the shirife wil not to him do right, he may remove the plea into the common Bank, as is aforesaid, not putting cause in the Pone. But in case that it be removed out of the countie into the common Bank by a Pone at the suit of the tenant, it behoueth to put the cause in the Pone, as it appeareth plainly in the Register. And also the said plea may be removed out of the Court of the Lord immediatly to the common bank by a Recordare in cause, at the suit of the tenant. And know ye, that this writ hath but ij. issues, that is to say, ioyning the miles upon the mere, & that is, to put him selfe in the great assise of our soueraigne Lord the king, or to ioyne batail, and that shall be in the election

Natura

the tenant. And for that it behoueth that the demaundant haue al times his champion ready, or els he may be deceiued. And when battail shalbe ioyned, & when great Assise, look in the Treatise of the great assise to be chosen, amonge other statuts. And it is sayed, that a deed of the auncestoz with a warrantie is a barre, if the demandant bring this writ of his owne possession, and not of the possession of his auncestoz, for that that he may not ioyne the issue, as afoze said. And the iudgmēt of this writ is final. And know ye, that it is no plee in this writ, to say that the tenant befoze this time recovered against the demandant by action tried in any other writ, then in a writ of Right.

Know ye, that if the ple be remoued by a Pone out of the countie into the commō bank is is not necessarie that the Shirife retourne the Tolt, by which the plee is remoued out of the Court of the Lord into the countye, for that, that the plee is come into the bank by a warrant, which came to the Shirife from thence which is more heygher then the Tolt is. C. 20. E. 3.

Know ye that a recouerie in a Cessavit against the demaundants selfe, is a good barre in a writ of Right. And that is by reason of the statute of Glo. ca. 3. M. 31. E. 1.

But know ye that a recouerie in Assise against him selfe is no barre. M. 8. E. 2.

And know ye, that these persons shall ioine the mise in a writ of Right: An infant shall ioyne the mise and trye it by battaile.

And

And þ tenant for terme of life shal ioyne in this forme, that is to say, that he hath better right to hold for terme of his life, the reuerſion to one ſuch. *M. 9. C. 4.*

The husband and the wife shal ioyne the iſſue as in the right of the wife, & the iudgement shal be that the husband & the wife and the heires of the wife shal hold quit of the demaundant & of his heires. *M. 31. C. 3.*

A Prebendarier shal ioyne the miſe by his attourney. *C. 14. C. 3.*

The husband and the wife were receiued for default of the tenant for terme of life, and they ioyned the miſe in ſuch forme, that is to say, that the tenant for terme of life hath better right to hold in the right of the husband by a grant made by the husband and his wife by fine, ſauinge the reuerſion to them, then the demaundant hath &c. *P. 13. C. 2.*

And if a writ of Right be brought against forſwer, euery one of them ioine the miſe. *M. 22. C. 3.*

And if a parſon ioyne the miſe without praiſe in ayd of the Patron and the Ordinarie, & after make default, whereby the demaundant doth recouer, his ſucceſſor shal haue for þ default one *Iuris vtrum* &c. *P. 8. E. 2.*

And know ye, that the parties after the battail ioyned shal finde ſuretie for theyr chāpions, that is to say, ij pledges for euery one of them, but firſt the tenant shal finde ſuretie: but theſe champions shal not be demanded bpon their ſureties found, as if they were let to mainprize: therefore enquire the

A. ij.

dy=

diuerſitie.

And know ye, that it is a good challeng to ſay that the champion is a villein. 1. H. 6.

And know ye, that theſe champions ſhal be appareled with white leather, and a coate of red Sendal, painted with the Armes of his maſter, if he haue Armes, & a Knight ſhall beare his ſtaffe, & a cuſtrell his target, which ſhal be of the colour of his coate. And if the champion be at the barre his target ſhall be reared to the backe of the champion, ſo that the chiefe part of the target paſſe the hieſt of his head, and it ſhall be holden to the back of the champion as long as he ſtandeth at the barre: and then the Juſtices ſhall charg the parties principally to ſuffer y^e harnes of their champions to be ſafely kept in a place. And theſe Juſtices ſhal looke that there be no manner of fraud, nor diſceit entended. And if default be found in y^e harnes, as rolles of prayers or ſaints, or other thinges like, it ſhall be amended. And y^e targets ſhal be of one lēgth & breadth: and alſo their ſtaues ſhall be of one lēgth, that is to ſay, ſiue quarters, and theſe two ſhal be put out of their harnes. H. 29 E. 3

The writ is ſuch.

HEnricus octauus dei gratia, Angliæ, Franciæ & Hiberniæ Rex, fidei defenſor, & in terra Anglicanæ eccleſiæ & Hiberniæ ſupremum caput: balliuis ſuis de A. ſalutem. Precipimus vob' quod ſine dilatione plenum rectum teneatis I. de B. de vno meſuagio cum pertinentibus in D. quod clamat tenere de nobis per liberum ſeruitium vnius denarij per annum pro omni ſeruitio, quod w. R. ei deſor-
ceat

ceat. Et nisi feceritis, vicecomes Southēfae', ne amplius inde clamorem audiamus pro defectu recti, Teste meipso apud west. &c.

A writ of Right in London is such.

REx &c. Maiori & vic' London salutem. Preci-
mus vobis quod sine dilatione plenum rectum
teneatis A. de vna shopia cum pertinentibus in Lō-
don, quam clamat tenere de nobis p liberum serui-
tium vnus denarij per annum quam w. C. ei de-
forceat. Ne amplius inde clamorem audiamus pro
defectu recti. Teste &c.

A Writ of right in London (which is direc-
ted to the Maior & to the shirif of y same
City) shal be open & not close, for that, that it
is alswel directed to the Maior as to the shi-
riffes. And for that, there shal not be said &
nisi feceritis, vic' Southē faciet &c. For the pleē
shal not be remoued from thence, but in case
the tenant vouch a fozeine to warrantie in
the said Citie, then the said Maior and the
shiriffes shal adiourne these parties befoze
the Iustices of the common Banke at a cer-
teine day, & shal send the Record (which is
befoze them) to the said Iustices. And when
they haue determined the warrāty, they shal
resend the said recozd by a writ of Iudgmēt
& commaund the said Maior and Shiriffes
that they shal proceed to the pleē in the said
citie: For the Iustices haue no power to
proceed after the warranty determined. And
the Maior & shirifes haue no power to make
proces against the fozein which is vouched,
as it appeareth by the statute of Gloc. chap.
xij.

xij, which beginneth: Puruiew est ensement que
 si home soit impled &c. & know ye, that where
 the king hath graunted franchises to the
 citie of London, or to any other towne, that
 they shall not be impled of lands or tene-
 ments within their franchises, ne of any o-
 ther thing out of the same franchise, they may
 haue a bill which is called Freshforce in the
 nature of Assise of Nouel disseisin, Mortd, or In-
 trusion. But it behoueth that it bee brought
 within xl. dayes after title growen, & if not
 then it behoueth that the said Citizens haue
 other writs out of the Chaucerie into the
 Hustinges of London, & if a forreiner bringe
 Assise or other writ of tenements in London,
 or in other towne franchised retournable be-
 fore the Iustices, Then the bailif of y franchise
 may come and demaund knowledge of
 the plee by a writ of the King, and they shal
 geue a certeine day in the franchise, and then
 are they of the franchise as Iustices of the
 King. But all maner of pleges personalls, as
 Det, Trespas or Couenants, may be pleded
 in their franchises by plaint, without bring-
 ing any writ at the common law: there they
 may demand their knowledg and franchise,
 vt supra: But know ye, that if the franchise
 be not demaunded in time, that is to say, if
 proces be sued vnto the Exigent, y franchise
 shall not be allowed, for that, that in such
 case the franchise may not make right accor-
 ding to the proces awarded in the Court of
 the king. And also in a Quare impedit, though
 the franchise be challenged, it is not allow-
 able

able, for that that the execution of that may not be awarded in the franchise. And also in plee of land, if the tenant make default, then the Steward, or the bailiffs of the franchise, at the ground Cape returnable shal not haue knowledge for that that he may not geue iudgement vpon the default recorded in the court of the king. As appeareth Hillarij 40. E. 3 in the beginning.

It is to be knowen, that euery writ which toucheth free hold in London ought to be directed to the Maior & Shirifes of London. But all other writs which are at the comon law in the same citie ought to be directed to the Shirifes onely.

A writ of right of Dower.

REX A. salutem. Precipimus tibi, quod plenum Rect' teneas D. que fuit vxor C. de tertia parte vnus mesuagij cum pertiñ in L. quam clam tenere de te, s. de domino in dotem per liberum serui- cium tertie partis vnus denarij per annum pro omni seruic' quod H. ei deforreat. Et nisi &c. ne amplius &c.

This writ of right of Dower lieth where a woman hath receiued part of her dower, and shee will demaund the remenant against the same tenant in the same towne, she shal be compelled to the foresaid writ, & the said writ shalbe directed to the heire or his gar- dein, if he be in ward. But if the heire be in so great pouertie that he hath no court, then it shal be directed to the chiefe Lord for de- fault of the heire. And this writ is remoua- ble,

ble, if the Lord will not do right to the party as afoze is said in a writ of right patent. And where a woman is endowd and after is disseised, and the disseisor continueth long his possession, and after the woman putteth him out, and the disseisor doth recouer by assise, the woman hath no recouerie, but by a writ of right of dower, as it is said. And know ye also, that if the woman hath recouered part of her dower, and part from her be defozced, Or if shee recouer al her dower saue a certeine parcell thereto belonging, in these two cases the woman shall be compelled to demaund it, by a writ of right of dower. And know ye that in euery maner of bailiwick, or office, in which the husband of the wife hath fee, which Bailiwick or office the wife her selfe (or any other) in her name may sufficiently keepe, in all such offices or Bailiwick, shee shall haue dower. But if it be the office of the Stewardship, or Marshallship of England, which two offices shee cannot by her selfe nor by deputie take vpon her, therefore shee shall not be endowd of them.

Know ye that a woman shall haue a writ of right of Dower of the halfe after the usage and custome (as in Kent) & other such places called Gavelkind. But if the woman commit fornication, or take a husband, shee is barred of all her dower. As it appeareth by the statute of Prerogatiua regis in the end Cap. xvij. But if shee will liue without a husband shee shall be endowd of the halfe of all the land.

Know

Know ye that a woman shall not have dower of Estouers, that is to say, Housebote, and Heybote, belonging to the freehold of her husband. For that, that if her husband had been deforced of the profit, or his heire of two parts none of them should have a Precipe quod reddat. For if the wife should have a Precipe quod reddat the heire should have it also, so that every of them shall have as much as the husband had. And for that such profits may not be parted, as charcoles in the woods of any other, Ne foster in fee, ne chamberlain. And if such profit descend to five parceners, every one shall not have such profit, but one parcener shall have the whole profit, & these other shall have allowance. And so the wife shall be allowed for her dower. W. 2. C. 2.

A writ of Dower, whereof shee hath nothing.

REx vic' Midd' salutem, precipe A. quod iuste &c. reddat E. quæ fuit vxor C. rationabilem dotem suam, quæ eam contigit de libero tenemento, quod fuit prædicti C. quondam viri sui in N. vnde nihil habet vt dic'. Et vnde queritur quod prædictus A. ei deforceat nisi &c.

This writ of Dower Vnde nihil habet, lyeth in many maners: that is to say, if a man marrie a woman generally speaking nothing of dower, then after the death of her husband, the wife may recover the third part of all such lands or tenements which were to the husband (during þ marriage betwixt them) by this writ aforesaid.

But

Natura

But if shee hath receiued part of her dower of one man, of those landes and tenements in one towne, if shee wil sue for the remnant which is behind against the same tenant of those lands & tenements in the same towne. Then shee is put to her writ of right of Dower, and not to the foresaid writ. And the proces is graund Cape & petit Cape.

1 But know ye, that if a man be seised of four acres of land in one towne, and take a wife, and make a lease of one acre for terme of life of the lessee, and hath issue and dieth seised of these three acres, and his heire entreth: & endoweth his mother of these three acres, & after the tenant for terme of life dieth, and the issue entreth (as in his reversion) now the wife shall haue a writ of Dower Unde nihil habet, of the acre which was leasled, and not a writ of right of Dower, for that that the heire was not tenant of the free hold of that acre when he endowd his mother of these other three acres.

2 Another case is, when a man hath married a woman, and shee is endowd at the church doore of certaine lands & tenements in a place especiall, in this case, though the husband haue more or lesse when he dieth they shal recover by the foresaid writ al those lands and tenements which were to her assigned at the church doore in name of her dower. But if shee will, shee may refuse this assignement, & take her dower at the common law.

3 The third case is such, when the father graunteth to his sonne to endow his wife of
all

all such lands & tenemēts that to him ought to discend by the same father, and after that the sonne dieth, the wife shal recover þ third part of all the fathers land. But in this case some men say that if þ wife haue no writing of this endowmēt she shal recover. A. 40. C. 3.

And note ye, that the wife shalbe endowed of lands & tenements which her husband had in fee simple, or fee taile. But in some case the wife shal be endowed where her husband was not seised, ne neuer in possession. As if my father die seised of certaine lands, & tenements in his demeane as of fee, and no man entreth in the land, and I die, my wife shall be endowed, and that is in fauour of dowser, and yet I was not seised of the land.

And know ye, that in these cases folloving the wife shall not be endowed of lands or tenements, in which her husband was seised in fee simple, or fee taile during the mariage.

As if land be geuen to him and to his first wife, and to the heires of their two bodies begotten, in this case the second wife shal not be endowed. Or if the husband commit felonie, for the which he is attainted, though after the said attainder he purchase his charter of pardon of al those lands whereof he was so seised before þ said atteinder. But of lāds purchased by the husband after that he hath his charter of pardon, shee shal haue dowser. Or in case that my auncestor hold certaine land of the king in chiefe and die seised, if I enter into my heritage without proces of the law, & die seised before that I haue a charter of

Natura

*Subst. the husband
had not entered the
wife's bond. Bond
subst. for doct.*

of pardon of the king for my entrie, my wiife shall not be endowd of the land. I take in Prerogativa regis, Cap. xiiij. Or in case the tenements be recovered against the husband by action tried. Or by action against her husband rightfully without disceit or collusion pleaded, and iudgement of the Court. Or if perpetuall deuorice be had betweene the husband and his wife. Except it be because of chastitie. Or if shee go away from her owne husband with another man, and not reconciled by her husband of her good will, without coercion of holy church. Or if her husband be villaine. Or if her husband die within the age of viij. yerres. Or if a man marrie his niece. Or if her husband lose his land by battaile or by great assise. Or if the husband haue but estate for terme of life or for yerres.

Know ye that a woman shall not be endowd of the goods of her husband, for the husband may sell them or geue them at his pleasure. H. 7. H. 8.

A woman shall not be endowd of estouers that is to saie, Housebote, Heybote, for that that if the husband had bene deforced of all, or the heire of two parts, he should not haue had a Precipe quod reddat, as is befoze saide in a writ of right of dower. H. 2. E. 2.

In these cases befoze said, and in many other more: he shall haue no dower, ne reuerie by the said writ.

And know ye, that by the statut of Merton, Cap. 1. The wife shall recover damages in the said writ: for the lands of which
her

her husband died seised . Except the tenant come into the court at the first day , and say that he is readie to yeld to her dower.

And know ye, that this writ shalbe min= teined against whom so euer be in possession of the lands and tenements which were to her husband after the espouseis, in what ma= ner so euer that he is in possession . But the wife shall not reconer dammages in these writs but for lands & tenements wherof her husband died seised.

And know ye, that in these cases folloswing the wife shal be endowwed of lands or tene= ments, in which her husband was seised in fee simple , or fee taile during the marriage.
C. 2. H. 2.

Know ye, that a woman shall be endowwed of a villaine in grolle, & the writ shalbe de Li= bero tenemento. C. 11. H. 4. H. 22. C. 4.

Know ye, that a woman shall be endowwed of a rent charge.

In a writ of dower , the tenant said that her husband was neuer seised . And the de= mandant said that C. father of the husband of the demandant died seised, by force wherof those lands disceded to her husband, and he died befoze any other estranger entreth. And so seised and of such estate &c. of this season in law the wife shalbe endowwed.

The graundfather, father, and the sonne. The graundfather holdeth of the king , and dieth , the father being of full age , hauing a wife and dyeth , befoze that he sue lincerie or entrie: his heire within age . The eschetour doth

Natura

doth seale the sonne, & committeth the sword of the bodie & land to a stranger, in this case the wife shalbe endowwed, and the writ lieth against the gardeine. But if the father had entred, and died before luerie sued, the wife shall not be endowwed. For the statute is Nullum accrescat ei liberum tenementum. Prerogatiua regis. Capit. 13. M. 4. H. 7. & M. 38. C. 3.

Rent was graunted to a man in fee, and he tooke a wife: and before the day of paiement he died, and the wife brought a writ of dower, and the tenant said, that her husband was not seised during the espousels. In this case the demaundant may maintaine that her husband was seised, and shewe the speciall matter in the euidence, for shee shall not haue the speciall matter by way of plea. C. 11. H. 4.

Tenant in the generall taile made a feoffement in fee, and tooke estate againe to him and to his wife in the speciall taile and hath issue and the wife dyeth, and after he tooke another wife and he dieth. The second wife shall recover her dower, for that that her husband was seised of such estate &c. But shee shall haue the auerment that her husband continued his estate by force of the taile. M. 41. C. 3.

Know ye, that if I enfeoffe one vpon condition that he shall enfeoffe another man before such a day, in this case though the same day he make the feoffement, yet his wife shalbe indowwed. C. 34. C. 3.

If lande be recouered in value against the husband because of a warrantie made by his aunceller afore the maryage, yet the wyfe after his death shalbe endowwed. For the husband myght haue alpened the land before that he was bouched, and then he should not haue yelded in value. And by consequens the title of the wyfe is elder. For the title of him which boucheth, beginneth but the day of the voucher. C. 5. E. 3.

If the heire after the death of hys father enter and take a wyfe, and after doth endowe his mother, his wyfe shalbe endowwed of that part whereof that his mother was endowwed before. For that, that he was seised of the same lande one time in fee. And if the Lord purchase the demeane, and after the mesne dyeth, & the wyfe recouer her dower by writ shee shall not pay the thirde part of the rent. For by the purchase the rent was extingui- shed. And notwithstanding shee shal recouer her dower, yet he may not auow, for shee is not tenant. B. 25. E. 3.

Lord, Mesne, and tenant are, the tenant holdeth of the mesne by a penie, & the mesne holdeth ouer by xx. d. the mesne releaseth to the tenant, all the right that he hath in the lande, and the tenant dyeth, his wyfe shalbe endowwed of the land. And shee shalbe attend- ant to the heire of the thirde part of the peny and not of the thirde part of the xx. d. for shee shalbe endowwed of the best possession of the husbande.

If I geue land afore the Statute, or at
B. 1. this

Natura

this day to a man in taile to hold of me by a penie, and after his decease his heire to pay to me xx. s. for ever, he dyeth his wife is endowed of the land, shee shalbe attendant to the heire of the third part of the xx. s. for it is all one rent and of the same rent the land is charged by condition in dede, and she may not haue acquittance of the heire, for that that the lande is charged by the dede of the father of whose possession she claimeth dower H. 22. E. 3.

22. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.
In a writ of Dower brought against the Gardeine, he alleageth that shee hath taken away the infant which was in his ward, & demaund iudgement of dower afoze restitution, and that was a good plee: & if shee make not restitution of thinfant in like plite as he was when he was taken away, she shall not haue dower. H. 8. E. 3.

In a writ of dower the case was such. The father and the sonne are, the father is seysed of thre acres of lande, the father dyeth, these thre acres discend to his sonne, the sonne taketh a wife, and endoweth his mother of one acre in alloswaunce of all her dower, thys dower of olde time deserved is a good plee in barre (if the wyfe of the sonne do bring a writ of dower of that acre against y^e mother) notwithstanding the endowment agaynst common right. H. 9. E. 3.

In a writ of Dower brought against a Gardeine, which saith that the wife withholdeth charters and munymentes concerning the heritage of the infant that is in hys ward,

warde, and if he would to him haue deliuered the charters, he was ready to yelde do=wer, and for that that the deliuerie of the charters belongeth not to the Gardein, she shal recover. So it is thought that this ple=lyeth not in the mouth of any man to plead, but onely in the mouth of the heire. *M. 10.*

C. 3.

¶ A writ of Admeasurement of Dower.

*R*ex Vicec' salutem, Questus est nobis VV. fil' & hær' B. vel frater, vel consanguineus de B. quod A. quæ fuit vxor C. plus habet in dotem de libero renemento quod fuit prædict' C. quondam viri sui in N. quam habere debet, & ad ipsam pertinet habend'. Et ideo tibi præcipimus, quod iusté & sine dilatione admensurari fac' dotem illam, ita qd' prædicta A. non habeat pl' in dotē de hæreditate prædict' VV. quam habere debet, & ad ipsam pertinet habend' secundum rationabilem dotem & quod prædictus VV. habeat de dote illa id quod habere debet & ad ipsum pertinet habēd'. Ne amplius &c.

*T*his writ of Admeasurement of dower lyeth against the wife. And by the statute of west. 2. ca. 7. which beginneth, Custod' de cætero &c. it is geuen alswel for the gardein as for the heire, but the heire may not haue this writ befoze that he be of full age. And also he may haue a writ to remoue this writ out of the County into the common Banke.

And know yee, that proclamation shal be made in this writ of Admeasurement, & other writs, as is contayned in the said statut, and therefore looke the statute. And know yee, that the wife of the tenaunt which holdeth

B. ij.

of

Natura

of the kinge in chiefe, may not enter in her dower, befoze that shee hath receyued her dower by assignement of the kinge. And if she marie without lycence of the king, shee shall make fine. And when she hath her dower assigned, she shal sweare that she shall not marie without lycence of the king. And if she marie without licence vt supra, then the lands that she hath in dower shalbe taken in the hand of the king for the trespass, vt patet in Prærogatiua Regis cap. 4. And she shall make othe, as is aforesaid, and with that accoꝝdeth Magna charta cap. 7. which begynneth, Vidua post mortem mariti sui &c.

¶ A writ of Right, de Rationabili parte.

REx A. de B. salut', Præcipimus tibi quod plenum rectum teneas C. de B. de vno mesuagio cū pertinentijs in London, quod clamat esse rationabilē partē suā, quæ eum contingit de libero tenemento quod fuit N. patris, matris, fratris, vel sororis sui vel suæ, & tenere de se per liberum seruicium quarte partis vnius denarij per annum pro omni seruic' quod G. ei deforceat, & nisi feceris &c. ne amplius &c.

This writ of Right de Rationabili parte lyeth al times betwixt priues of bloude, as betwixt brothers, sisters, newewes, or neeces, and not betwixt straungers. And if it bee brought betwixt straungers, the writ shall abate. And also it lyeth where myne ancestor dyed not seised, as if any man whych hath many coheires make a lease for certain lande, rent, or tenement, for terme of lyfe of the

Bigg's partent

the lessee, or for terme of anothers lyfe, & dyeth before that the reuerſion of the ſaid lāds be to him reuerted. And after that the lessee dyeth, or he for whose life the land was let, and one of these coheires (to whom the land ought to reuert) doth enter, and holdeth all the other coheires out, then they which are holden out, shall haue the ſaid writ againſt that coheir that hath entred into the whole land.

And know ye, that this writ is a writte of Right patent, but it shall not be tried by Battaille, or graunde Aſſiſe. And this writ lyeth not betwixt parents which claymeth by diſcent (after that it paſſeth the third degree) but it lyeth betwixt bretherne and ſiſterne, where the one claymeth by charter, and the other by diſcent, for this writ is not ordeyned, but for to trie the priuity of bloud. And the proceſſe is a Summons, and if he make default at the Summons retournable, then the graunde Cape. But if hee come at the Summons retournable, & after make default, then the petit cape ſhalbe awarded. But if the parties come and pleade to iſſue, then the proceſſe is againſt the Inrie, Venire facias, Habeas corpora, and a diſtreſs untill they come.

Alſo there are other writs, as of Eſcheate, Droit ſur diſclaimer, Meſne, Ceſſauit, Drot de gard, which are called writtes of Right, becauſe that they are taken by reaſon of the Seygniorie, and not becauſe of diſſeiſin to him, nor to their auncelloz.

B. iij.

Item

Natura

of the kinge in chiefe, may not enter in her dower, befoze that she hath receyued her dower by assignement of the kinge. And if she marie without lycence of the king, she shall make fine. And when she hath her dower assigned, she shal sweare that she shall not marie without lycence of the king. And if she marie without licence vt supra, then the lands that she hath in dower shalbe taken in the hand of the king for the trespass, vt patet in Prærogativa Regis cap. 4. And she shall make othe, as is aforesaid, and with that accordeth Magna charta cap. 7. which begynneth, Vidua post mortem mariti sui &c.

¶ A writ of Right, de Rationabili parte.

REX A. de B. salut', Precipimus tibi quod plenum rectum teneas C. de B. de vno mesuagio cum pertinentijs in London, quod clamat esse rationabilem partem suam, quæ eum contingit de libero tenemento quod fuit N. patris, matris, fratris, vel sororis sui vel suæ, & tenere de se per liberum seruicium quarte partis vnius denarii per annum pro omni seruicio quod G. ei deforceat, & nisi feceris &c. ne amplius &c.

This writ of Right de Rationabili parte lyeth al times betwixt priues of bloude, as betwixt brothers, sisters, newewes, or neeces, and not betwixt straungers. And if it be brought betwixt straungers, the writ shall abate. And also it lyeth where myne auncestour dyed not seised, as if any man whych hath many coheires make a lease for certain lande, rent, or tenement, for terme of lyfe of the

Byggbe partonib

the lessee, or for terme of anothers lyfe, & dyeth before that the reuerſion of the ſaid lāds be to him reuerted. And after that the lessee dyeth, or he for whose life the land was let, and one of these coheires (to whom the land ought to reuert) doth enter, and holdeth all the other coheires out, then they which are holden out, shall haue the ſaid writ againſt that coheir that hath entred into the whole land.

And know ye, that this writ is a writte of Right patent, but it shall not bee tried by Battaille, or graunde Aſſiſe. And this writ lyeth not betwixt parents which claymeth by diſcent (after that it paſſeth the third degree) but it lyeth betwixt bretherne and ſiſterne, where the one claymeth by charter, and the other by diſcent, for this writ is not ordeyned, but for to trie the priuity of blood. And the proceſſe is a Summons, and if he make default at the Summons retournable, then the graunde Cape. But if hee come at the Summons retournable, & after make default, then the petit cape ſhalbe awarded. But if the parties come and pleade to iſſue, then the proceſſe is againſt the Inrie, Venire facias, Habeas corpora, and a diſtreſs untill they come.

Alſo there are other writs, as of Eſcheate, Droit ſur diſclaimer, Meſne, Ceſſauit, Drot de gard, which are called writtes of Right, becauſe that they are taken by reaſon of the Seygniorie, and not becauſe of diſſeiſin to him, nor to their auncelloz.

W. iij.

Item

Natura

Item if a man hath issue ij . daughters by dyuers women and dyeth, they enter & make purparty betwixt them, if the one die without heire general or especial, her part shall escheate to the Lord, and shall not discende to her sister of the halfe blood, but if that sister haue an vncle, the land shall discende to the vncle, and if the vncle die without heire of his bodie, the lande shall discende to the other sister which was of the halfe blood, & econtra, Quare hoc. If a man haue issue two sonnes by dyuers women & dieth, the elder doth enter in the land, & dyeth without heire of his bodie, the land shall discend to his vncle. And if the vncle dye without heir of his bodie, the lande shall discend to the yonger brother as cousin and heire to him.

¶ A writ of Right close.

REx &c. Balliuis suis de A. salutem, præcipimus vobis quod sine dilatione, ac secundum consuetudinem manerij nostri de A. plenum rectum teneatis B. de C. de vno mesuagio cum pertiñ in L. quod ei deforceat, ne amplius &c. Teste &c.

This writ of Right close (which is called after the custome of the manor) shalbe at all times brought in the Court of auncient demesne. Also euery writ that is sued vpon the custome of the manor, is called a writ of Right close. And this writ lyeth alwayes betwixt Sokemen, which are of auncient demesne. And knowe ye, that a Sokeman is properly such one that is free, and holdeth of the king, or of any other Lord of auncient demesne,

demefne, landes oz tenements in billenage,
 and hee is priuiledged in this maner, that
 no man ought to put him out of his land and
 tenemēt, as long as he is able to do his ser-
 uices which to his lands & tenemēt belong-
 eth: no man may encrease the seruices of his
 tenant, nor constraîne him to do mo seruices
 then hee hath done in time past, for that
 these Sokemen were gaynozs of the Lords
 lands in auncient demeane. And they ought
 not to be summoned nor trauelled in Iuries
 nor Enquestes, but in the manors to whom
 they belong. But yet in pless of Trespas,
 Det, & other personal actions, they are sum-
 moned as other people. And of these tenants
 in billenage looke the first statute of R. the
 2. ca. 6. And one Sokeman may not empled
 another of lands & tenements within aunci-
 ent demeane by another writ then this writ
 of Right close. And in thys writ the de-
 maundant shal make his protestation in the
 court to sue his writ in the nature of what
 writ that hee will, as his case lyeth. And
 know ye, that this writ shall not be remoued
 but for a great cause, that is to say, when
 the court lacketh power, oz for that, that he
 sayeth that his father was enfeffed by our
 soueraigne Lord the king, and sayeth that
 he may not, ne ought not without the king
 make aunswere: Or he sayeth that he hol-
 deth the tenemēt which are in demaund at
 the common law, by fine leued in the court
 of the king afore such Iustices, & for that
 the ple may not be sued forth by this writ of

B. iij.

Right

Natura

right close in the court of auncient demeane and many other causes are, whereby thys wryt may not be remoued by the Recordare, at the suit of the tenaunt. Know ye that all those landes or tenements which are in the hand of the Lord of auncient demeane, are frank fee and pledable at the common law. And all these landes and tenements which are in the handes of those tenants of auncient demeane are pledable within auncient demesne, and not in other places. And know ye, that the demaundant in this wryt may not remoue the plee for cause, nor without cause, for that that he may not haue a Telt to put it into the Countie, nor remoue the plee out of the countie into the common Bank. But if hee complaine, that right to him is denyed or delayed in auncient demeane. And then he shall haue a wryt out of the Chauncery to the Shirife of the same Countie, commaunding him that he go in his proper person, taking with him fower Knights of his countie, and go to the said Court of auncient demesne to see that right to him be done. The demaundant also may haue other wryts to helpe hym, as it appeareth by the Register. And also the tenant may haue a Superfedeas, in case that he vouch a forrein to warrāty in the court of auncient demesne, and vpon that one Attachment (if neede be.) And in case that the said landes in auncient demeane be sold by fine without licēce of their Lord, he may haue a wryt of the Chauncerie, for to adnull the sayd fine (as it is said) or other wayes,

wayes, hee may haue a writ of Disceit against his tenant that hath leuied the sayd fine, & recouer his dammages vt dicitur &c.

And note, which are good causes in thys writ to remoue one matter out of one particular court into the kinges Court &c.

Knowe ye, that it is said in Writ brought by the Abbot of E. &c. that it is good cause to remoue the plee, to say that the Baylie is seruant of the plaintife. And it was laid if one plee be remoued out of the Court of one Lord for one cause, the cause is trauerfable: but of one plaint out of the countie, otherwise is. Quære the diuersitie.

In Writ of freshforce brought in auncient demesne, the tenaunt sued a Recordare to the shirife, for to remoue the plee, & the cause was that the Bailie had a liuery of the plaintife, and the plaint was of the freeholde. And it was holden that this cause was not sufficient, to put the court out of Jurisdiction, for the iudgement belongeth to the iutors, and not to the Bailie, And not like to one Recordare, to remoue one plee into the Countie, and to shew that the Shirife hath a liuerie of the plaintife, there the plee shall not be demaunded for that, that the one and the other are the Courtes of the king. H. 12. H. 4.

¶ A writ of Right of Præcipe in Capite.

REX Vic' S. salutem, Præcipe A. quod iuste &c. reddat B. vnum mesuagium cum pertiñ in C. quod clamat esse ius & hæreditatem suam, et tenere
de

Natura

de nobis in capite, & vnde queritur quoddam prædictus A. ei iniuste deforceat, vt dic'. Et nisi fecerit, & prædictus B. fecerit te securum de clamore suo prof. tunc summon &c. qd' sit coram Iusticiariis &c. ostensurus quare non fec', & habeas &c.

This writ of Right Præcipe in capite, lyeth for the tenant which holdeth of the kinge in chiefe, as of his crowne, which tenant is deforced, then he shall haue this writ, & this writ is close, and shalbe pleaded in the common bank. For if any tenant which holdeth of any Lord be deforced, he ought to haue a writ of right patent, which writ shalbe determined in the court of the said Lord. And in the same maner, he that holdeth of þe king in chiefe as of his crowne (if he be deforced) he shall haue a Præcipe in capite. But by the graunde charter cap. 23. which begynneth. Breue quod vocatur Præcipe in Capite, wil, that this writ shall not be graunted to any man wherby any free man may lose his court. But if any wil haue this writ, he shal sweare by his faith that the tenement which is in demaunde, is holden of the king in chiefe, as of his Crowne, and of none other. But if any man purchase the Præcipe in Capite by false suggestion made in the court of the king, to defraude the chiefe Lord of his Court, then the chiefe lord shal haue a writ to cal againe the pleæ, directed to the Iustices, that they may enquire if the tenements be holden of the king or of the chiefe Lord. And if it be found, that the tenements are holden of the chiefe Lord, then the demandant if he will may

may bring his writ of Right patent in the court of the Lord.

And know ye, that if any man be essoined de Malo lecti in a writ of Right, then if the demandant will proue that the tenaunt is not so sicke, but that he may come well ynough, and the Enquest finde against the said tenaunt, his essoine shall turne hym in one default. And also this essoine lyeth not but in a writ of Right, where two claymeth by one discent. And that is ordeyned by the statute of West. 2. cap. 17. which begynneth, In itinere Iusticiar. And vpon that the demandant shall haue a writ out of the Chauncerie to enquire, if the tenaunt bee sicke or not. And also if the tenant hath demanded licence to ryse and to appeare in the Court, where the writ of right hangeth, and if to hym it bee denyed, then hee shall haue a writ (which is called) De licentia surgendi &c.

Also the Lord may recouer his court by two other wayes, that is to say, when the writ hangeth before the Iustices, he may come before them and shew his case, how these tenements are holden of hym. And if the Iustices see and finde hys suggestion true, the writte shall abate, vt patet Anno 6. E. 3.

Or if the demandant recouer by this writ, the Lord may after bring a writ of disceit against the demandant & recouer his damages against him. And after by petition, he shall recouer

Natura

recouer his seygnozie of the handes of the king, vt patet.

¶ A writ of Monstrauerunt.

REX Abbati de A. salutem, Monstrauerunt nobis homines de manerio de I. quod est de antiquo dominico Coronæ Angliæ, quod tu exigis ab eis alias consuetudines & alia seruitia quā facere debent & antecessores sui tenentes de eodem manerio facere cōsueuerūt, tēporibus quibus manerium illud fuit in manibus progenitorum nostrorum quondam Regum Angliæ, vel in manu nostra. Et ideo tibi præcipimus, quod a præfat hominibus non exigas siue exigi permittas alias consuetudines & seruitia quam facere debēt, & antecessores sui prædicti facere consueuerunt temporibus prædictis. Et nisi ad mandatum nostrum hoc feceris A. Vicecom̃ nostro de N. id fieri præcipimus. Teste &c.

The writ which is called Monstrauerunt, lyeth for the tenants in auncient demeane which are distrayned for to make other seruises or customes, then they or their auncestours made in the tyme of Wyllyam Conquerour whych passeth the tyme of memorie.

And know ye, that this writ shalbee dyrected to the Lord which demaundeth other seruises or customes (as afoze is said) hym commaunding, that he demaund none other seruises and customes, but such that hee and his auncestours hath done in auncient demeane tenure. And also they may haue a Monstrauerunt directed to the Shirife, hym commaunding that he shal not suffer the lord

to distraine the said tenants to do other seruices and customes then they ought to do. And know ye, that if the tenant may not bee in quyet ne peace by this writte, they may haue one Attachment against the Lord, that he be before the Iustices of our Soueraigne Lord the king at a certeine day &c. And the names of all the tenants shalbe put in the writ, and all the tenants together shall sue the said writ, for if one tenant be distrayned to doe other seruices or customes (then hee ought to do) that shalbe in preiudice of all the other tenants, which holdeth by lyke manner of seruices &c. When the Booke of Domesday was made, that is to say, in the tyme of Saint Edward the king, all the landes and tenementes which were in hys hands at such time that the booke of Domesday was made, are called Auncient demesne. But the landes and tenements which then were in other mens handes, are franke fee, and pledable at the common law. And the proces is a Prohibition, one Attachment, & one Distres &c.

Know ye, that in this writ of Monstraerunt, euery one of them may declare seuerally, and so they may not in other writs but in this writ. And they may make one declaration (if they will.)

And in this writ, the death of one of these plaintifes shall not abate the writ, by the opinion of the Court. Notwithstanding that all be not named, yet the writ lyeth for those that wyll sue, by Babb. D. 36. C. 3.

And

Natura

And in this writ they shal declare of every tenure, and that the Lord then distrayned for mo seruices. Or if he demaunde and distraine not, yet the writ lyeth for them, and they shal put in certeine, for what thing hee doth distraine them. But they ought not to alleage the day and place incerteine, no moze then in a writ of Mesne, for a man shal haue a writ of Mesne though he were neuer distrayned. *M. 18. C. 3.*

And also it is conuenient, that the plaintiff shew, that the manor is auncient demesne. *P. 39. C. 3.* And know ye, y^e this writ lieth not for such men that hold lande in auncient demeane, by court Rolle at the will of the Lord. *P. 41. C. 3.*

¶ A writ of Ne iniuste vexes:

REX A. salutem. Prohibemus tibi ne iniuste vexes vel vexari permitt' B. de libero tenemento suo, quod de te tenet in N. nec ab eo exigas vel exigere permittas consuetudines & seruitia quæ inde facere non debet nec solet, & nisi feceris vicec' N. id fieri faciet, ne amplius inde clam' audiam' pro defectu recti. Teste &c.

This writ of Ne iniuste vexes lyeth where any Lord doth distraine his free tenaunt, which holdeth of him by certein seruices and customes, to do mo seruices or customes then he or his euncestors was wont to do, then the tenant shal haue this writ, as is prouyded in the statute of Magna charta capit. 10. which beginneth, Nullus distringatur &c. And this writt is a prohibition which shalbee

dis

dyrected to the chiefe Lord, commaundyng hym that he distraine not his free tenant to do any other seruyce nor custome then the said tenaunt or his auncestor was wont to do. And this writ is a writ of Right patent, for this clause shalbe put in the writ, Et nisi fec' Vic' &c. And know ye, that thys writ is all tymes auncestrel and shalbe determined by Battayle, or graunde Assise. And the proces is, as in the Monstrauerunt, that is to say, one Prohibition, one Attachment, & Distres

Know ye, that in thys writ he shall not declare when hee distrained, but shall say that he hath hym greued for mo seruyces &c. M. 40. C 3.

¶ A writ of Right, Quando Dominus remisit Curiam suam domino Regi.

Rex Vice' Midd' salutem. Præcipe A. quod iustè &c. reddat B. vnum mesuagium cum pertinen in F. quod clamat esse ius & hæreditatem suam, Et vnde queritur quod prædictus A. ei iniustè deforceat. Et nisi fecerit, et prædictus B. fecerit te securum de clameo suo prof. tunc sum per bonos summonit prædictum A. quod sit coram Iusticiarijs &c. ostensurus quare non fecerit. Et habeas ibi sum, & hoc breue. Teste. Quia capitalis dominus nobis inde remisit curiam suam.

This writ of Right, Quia dominus remisit curiam suã domino Regi, lieth in case where lands or tenements (which are win the seignorie of any Lord) are in demand by a writ of right, & if the Lord hold no court, or other=

Natura

otherwise, at the prayer of the demaundant, or the tenant shall send to the court of the king, his writ, to put to the king his court for that time: Saving to him another tyme the right of his seignorie. And this writ shall be retourned before the Justices of the common banke and shall be close. And these causes shall be put in the writt in the ende post Teste me ipso &c. Quia capitalis Dominus feodii illius inde remisit nobis curiam suam &c. And the proces is, **Sūmons, grād cape & petit cape.**

¶ A writ of execution of Iudgement.

Rex Vice' Midd' salutem. Præcipimus tibi, quod Execuc' iudicii nuper reddit' in Corn' tuo de lo-
quela quæ fuit in comitatu tuo per breue nostrum de Recto, inter A. perentem & B. tenentem, de vno mesuagio cum pertiñ in L. sine dilatione fieri facias.
This writ de Executione iudicii lyeth where any pleæ is pleaded vnto iudgement, and the Shyrife (if the pleæ be in the countie) or the Bailife (if he be in Court baron, or in hundred) in fauor of the tenant, or by other chaunce prolong or deferre the iudgement, then the demaundant shall haue thys writ. And this writ is one Justices. But if hee make execution, then shall there go out a Sic ut alias, with a clause (vel causam nobis significes) and after that one Pluries, then shall go out Attachment as in a Repl. And know ye, that this writ lyeth for the demaundant in a writ of right patēt or close, as wel against the bailife (if the pleæ be in another court, as against the Shyrif if the pleæ be in the coũty. And also

in this writ lieth the proces of a contempt,
and may bee made in all other writs if neede
be &c.

¶ A writ of False iudgement.

REX vic' Norf. salutem. Si A fecerit te secus de
clam suo prof. tunc in pleno com tuo recordari
fac' loquelam, que fuit in eodem com per breue nos-
trum de recto, inter ipsum A. petentem de vno me-
suagio cum pertinentijs in C. vnde idem A. queri-
tur falsum sibi factum fuisse iudicium in eod' com,
& record' illud habeas coram Iusticiarijs nostris a-
pud VVest. tali die sub sigillo tuo & sigillis iij. le-
galium militum eiusd' com ex illis qui record' illi
interfuerint, & sum p bonos summi prædict B. quod
tunc sit ibi auditur record' illud. Et habeas ibi sum
nomina prædict quatuor militum, & hoc breue.
teste &c.

This writ De falso iudicio, lyeth where false
iudgement is geuen in Countye, hundred
or in Court Baron, then he (against whom
this is geuen) shal haue this writte for to
cause the recorde to bee brought before the
Justices of the bank. or in Eire. And know
ye, that this writ shal extend aswel to writs
of right which are pleadable in county, or in
court Baron, without writ. And know ye
that a writ of false iudgement lieth not in as-
sise of freshe force, but a writ of error. And
know ye that the proces in this writ against
the party is a garnishment vpon his perill, &
against the shirif, or against those bailifes, if
they do not the commaundement of the king
by distresse &c.

Know ye vpon which iudgements a man
shal

Natura

shal haue a false iudgemēt, if one Justicies be directed to the shirife, to holde ples notwithstanding y^e it be originall, yet he shal haue a writ of false iudgment &c. Trin 34. H. 6.

And in a writ of right, that the tenāt doth plede to thenquest, & at the venire fac' y^e tenāt is esloyned, & hath day ouer, & no proces is made against thenquest, ne cōtinued by y^e rol, And also at the same day y^e the tenāt hath by the esloine, he is esloined another time, & that is challenged, for that, y^e this is y^e second day after thenquest, notwithstanding that, y^e esloin is allowed. And also after such discontinuāce, if the plaintiff be nonsuit in y^e writ of right, & iudgment final be geuen, in all these cases he shal haue a writ of false iudgement &c. H. 22. E. 3.

In a writ of right close brought in the court of the lord, the proces doth cōtinue vntil the demaundant do recover, the tenāt doth sue a writ of false iudgment, & sheweth y^e the land is holden by the verge, in which case he ought to sue by bil, & it was awarded that he should take nothing by his writ of false iudgment, for that, y^e if this iudgemēt be reuerled, that shalbe to geue a freeholde to the tenant where he lost no such thing. H. 14. H. 4.

Tenant at will of the Lord after the custome of the manor, brought a writ of right, & made his protestation to sue in the nature of assise of Wobaucester: the proces did continue vntil the demānant did recover, & the tenant brought a writ of false iudgement, & assigned the false iudgemēt, & it was awarded that

that he should take nothing by his writ for the reason aforesaid H. 13. R. 2.

In a writ of false iudgment, if the shirife retorne that he went to the court, & that the sutors said, þ here is no such plee, then there shal go out a Sicut alias, & not a writ to cause þ sutors to come: for the sutors shal not come but is case where the party wil auerr, that þ record is other then these sutors haue recorded. C. 10. E. 3.

And know ye, that if the shirife geue false iudgment without thassent of the sutors, the party shal not haue a writ of false iudgemēt, but shal haue his remedy by bill against the shirife.

¶ A writ of Error.

REX balliuis suis de Oxoñ salutē. Quia in recordo & processu, ac etiam in redditione iuditiij ass. fres. ca forciæ, quæ inter A. & B. sum fuit & capta corā nobis in curia nostra Oxoñ sine breue nro secundū consuetudinē ciuitatis præd' de vno mesuag. cū pertiñ in Oxoñ, error interuenit manifestus, ad graue dampnū ipsius A. sicut ex querela sua accepim⁹. Nos errorē, si quis fuerit, mod' debito corrigi, & ptrib⁹ pd' plenā & celerem iusticiam fieri volentes in hac parte, vobis præcipimus q̃ si iuditiū inde redditū sit, tūc recordū & processū assisæ præd' cū omnibus ea tangentibus, nobis sub sigillis vestris distinctē, & apertē mittatis, & hoc breue, ita q̃ ea habeatis a die & c. vbicunq; & c. vt inspectis recordo & pcessu pd' vltorius inde fieri faciam⁹ q̃ de iure & secund' legē et cōsuetudinē regi nr Angl fuerit faciend', Teste & c.

This writ of Error, lyeth in case where false iudgement is geuen in the common
C. ij. bank,

Natura

bank, the which writ shalke retourned into the kinges bench, & if the false iudgment be geuen in the kings bench, it shalbe reuerfed by parliament, or by the kinges great counsaile by petition shewed befoze them. And if false iudgment be geuen in the Citie of London befoze the shirifes of the same citye, then shal a writ of Error be sent to the Maior & shirifes, y they redresse the sayd iudgement befoze them in the Hustinges next to come. And if they do not redresse the said iudgmēt, then shal there be certaine Iustices assigned by y kings cōmission to sit at saint Martins the great by Nisi prius, for to redresse the sayd iudgement. And if the default be found in the said Maior & shirifes, they shalbe punished for their misprision, by ordināce contained in the statute de añ. 28. E. 3. ca. 10. But in case that false iudgment be giuen befoze y Maior, then shalbe made one commission to certaine persons as is said. And in case y a writte of false iudgement be retourned befoze y Iustices of the common bank, & the party say that the record is other then the Court recorde, the auerrment shall be receyued by the good countrey, & by those which were present in the court when y recorde was made, if they come with the other of the countrey by the retozne of the shirif. And if they come not, be the enquest takē by the good countrey, Vt patet in statuto inde. Añ 1. E. 3 cap. 5.

In a writ of Mesne brought against two brothers, y one hath issue & dieth, & iudgemēt is geuen against y other by his default, & the
issue

issue & his vnkle doth bring a writ of error for that, that the seignorie is departed betwixt males by vsage, and assigned for Error the death of his brother at the time of iudgment, & was awarded, that the iudgment be reuer= sed, for that, that the brother, in this case may not haue a writ of disceit for to reuerse that, that was lost, but onely damages, and this is error in deede. C. 16. E. 3.

One assigned Error, that such a day the Exigent was awarded returnable such a day afore which day the king died, & hee was not but two times demaunded in y^e time of king Edward the fourth, and thre times in time of king Richard the third, & that was holden Error, for that the writ abated in deede, by the death of king Edward, and that is error in deede. And yet this vtilawye is not boide, but Error. M. 7. H. 7.

One assigned error, forasmuch as after the issue ioined, and afore the verdict his attorney was deade, that was no error, for that, that by his death the writ abated not, nor the issue waied ne discontinued, for that that he may appeare by another attorney, or proper person. And also he shall not say that his attorney was dead at the time of his plee for that, that it is against the recorde, but he shall say that another man of the same name appeared, without that, that the attorney was of liue. And know ye y^e he may not assigne error but in proper person M. 7. H. 7.

Error brought in the bank of the king of a iudgement geuen in a writ of Dowry, and
C. iij, assigned

Natura

assigned for error, for that, that these tenants in the writ of dower appeared by attorney, where no warrant of attorney was entered, & prayd a writ to certifie, if any warrant be or not: & it was awarded that he shall not haue aduantage to assigne that for Error. And diuerſitie taken betwixt error which is matter in deed, & error which is matter of recorde. For if the partie one time sue one Scire facias, he shall neuer assigne error in deed after, for if after a Scire facias awarded, one wil assigne Error, for to auoide one outlawry, to say, that he was in warre in Fraunce vnder such a captaine, he shall not haue such assignment for it is error in deed, and not parcell of the recorde. And looke if one after the Scire facias may assigne error, for to reuerſe one outlawry, to say that he was not but fower times called, and pray a certification. Quare, if he shall haue or not, for to certifie the Exigent &c. H. 22. E. 3.

In a Scire facias, out of a recognisance against vi. the Shrifes returned y^e thre are dead, and these other thre come by warning and alledged the death of the other, and that their heires are within age, and demaunde iudgement, if during their nonage, they shall be put to answer: vpon which was awarded, that the plee shall tary. And now the plee was a writ of error, and assigned Error for that y^e by the recognisance al vi. were charged and euery one of the whole, for the which when these thre did come, execution against them ought to haue bene awarded. Another error was

was, for that, that they alledged þ the heires
of the other thre were within age &c. which
plee lieth not in their mouthes, for that, that
they are strangers &c. And for the first Er-
ror was said, that the charge falleth equally
vpon al these tenants in common, & not vpon
one, for notwithstanding that the landes of
the one were lyuered &c. He shalbe ayded bp=
on his suggestion &c. And to the second Er-
ror was sayed, that a stranger may alledge
the nonage of another, and proces shall not
be made against him, in whom nonage is al-
ledged, if it bee not trauerfed, and all was
affirmed by iudgement &c. C. 29. E. 3. M.
9. H. 5.

If a writ of Trespas be brought against
many, & some appeare and plede not giltye,
which are found giltye, & against these other
proces is sued. Quare, if these other that are
founde giltye shalbe receiued to alledge Er-
ror in the proces made against þ other which
are seuered in proces M. 9. H. 5.

The executors of one man brought a writ
of Error of outlawrye pronounced against
the testator in his life, and for diuers errors
þ outlawry was reuerfed at their suit, & they
restored to the goods of their testator. D.
11. H. 4.

¶ A writ of Dedimus potestatem de at-
tornato faciendo.

REx balliuis suis de hund' de S. salutem, quia per
commune consilium regni nri Angl' prouisu est,
quod quilibet liber homo possit facere attornatum
C. iij. suum

Natura

suum ad loquelas prosequend' & defend' motas in
com, trichingis, hund', wapentagij & alijs cur sine
breue nostro, vobis præcipimus quod atturn quem
A. per literas suas patentes loco suo atturn voluerit
ad loquelas suas prosequendū, motas coram vobis
in hundredo nro præd', loco ipsi? A. sine difficultate
ad hoc recipiatis hac vice de gratia speciali Teste &c

This writ of Dedimus potestatem de attornato
faciendo, lieth where a man is pleading in þ
court of the king, and may not trauallye nor
attende his ple, for sickness, or other busi-
nesse which he hath to do, then he may haue
the said writ directed to the Shirefe, or to
an Abbot, or to a Prior, or to a Knight &c.
to recorde his attourney. And it shalbe com-
maunded in the said writ, that he (to whom
the writ is directed) retourne the said writt
vnder his seale, and the name of his attourney
which is receyued, that he may be knowne
in the kinges court, as it appeareth by a cer-
taine statute. De liberatibus perquirendis in fine.
And know ye, that in euery ple of lande, &
plee parsonal: aswel the tenat as the deman-
dant, may make their attourney as the defen-
dant or the plaintife, & that befoze Justices,
which haue power to receiue attourney with-
out writte, if the ple be befoze them in the
Chauncery, or otherwise he that shall haue
attourney, may sue to the kings court, & pur-
chase this writ of Dedimus potestatem, as be-
foze is said. And knowe ye, that euery free
man may make his attourney aswel to make
suit in countie, hundred, or in court baron as
he may pursue or defend, & þ wil the Statut of
Merton

¶ Herf c. x. And also when a free mā hath noted & ordained his attornei in any maner (as afoze is said) yet he may if he will, the same attornei remoue & make a new. And knowe ye that no man may make attornei in appeale as it appeareth by the statute of Gloucester. Cap. 8. An. 44.

Knowe ye that in appeale of Robbery, the defendand pleded not guilty, and was founde guilty, and after verdict he said that hee was a clerke, and the plaintife sayd that he was Bigamus. And for as much as the proces shal be made to the Bishop to certifie he was not appealed vpon the principal. In this case the plaintife was receyued to make attourney: D. 17. E. 3. lib. ass.

In appeale, the defendand was acquitted, the abbettors were inquired of, and A & B. were founde abbettors, by which the defendand prayed a distresse against them, and had it. And prayed also that he myght make attornei against the abbettors, and so did. D. 8. E. 4.

If the appellee be acquitted by enquest, & the Justices haue enquired of the Abbettours, which are founde: & there is certaine matter within the recorde that the Justices wil bee aduised of the iudgmēt, the appellee shal be receiued to make an attornei. D. 21. H. 6.

Knowe ye that a woman may be attornei for her husband by bill. D. 13. E. 3.

An infant may not be attornei, ne make attornei. C. 1. H. 5.

Knowe ye, that thre thinges belongeth to the

Natura

the making of an attorney, one is that the attorney will agree to be attorney for the party. And another, that the partie will haue him for his attorney. And the third that the Justices will receyde his name. And none of the may be without the other. *M. 7. B. 4.*

Know ye, that it was said in a writ of error, brought of a false iudgement geuen in the county &c. that in every case where the partie is for to excuse him against the king of a contempt, he ought to be in proper person and not by attorney. *M. 22. C. 4.*

And know ye, that it is was said in a writ of error brought vpon a false iudgment geue in C. that in every case where the party is to answer to the king, for to excuse him of a contempt, he ought to come in his person, & not by attorney, for it was said, y^e where a prohibition was awarded out of the comon place to y^e archdeacon of C. for that, y^e by the surmise of the party, he shewed how an action of that same thing was hanging in the comon bake, & vpon that one attachment & a distress went forth &c. to answer to the contempt, & the archdeacon was chased at the day of the distress returned, for to come in proper person, for excusing of him selfe in that he did not surcelle, and may not be by attorney.

One which cometh in vpon an Exigent before plee pleaded, would haue made attorney & might not. Contrary law is, when he cometh in by supersedeas.

One attorney may plede misnaming of his maister, which standeth with his warranty.

As

As if the warrantie be, I. S. ponit loco suo &c.
 He may say that he is made knight.

¶ Protectio cum clausula volumus.

REX oībus balliuis & fidelibus suis ad quos præsentes literæ puenierint salutē: Sciatis q̄ suscepim⁹ in protectionē & defensionem nr̄am dilectū & fidelm I. A. qui in obsequiū nr̄m & p̄ceptū nr̄ū profectus est ad ptes Scociæ, ōnes t̄ras, redditus, & oēs possess. suas. Et ideo vobis mandam⁹ q̄ ipsū Io. t̄ras, redditus & oēs possess. suas manuteneatis, protegatis & defendat, nō inferentes ei vel inferri pmit- tentes iniuriā, molestiā, dāpnū aut grauamen. Et si quis eis faciat, sine dilatione faciatis emēdari. In cuius rei testimoniū has literas nr̄as fieri fecimus patentes vsq; ad festū s̄cti Mich. px. futurū duratur. Volum⁹ etiā q̄ idem I. A. interim sit quietus de oībus p̄litis & q̄relis, exceptis p̄litis de dote, vnd' nihil habet &c. Quare imp̄, & Ass. no. diff. vltimæ p̄sentationis, & attinc̄: et exceptis loquelis, quas coram Iustic' nostris itinerantibus in itineribus suis sūmoniri contigerint, presentē minime valitur, si contingat ipsum I. A. iter illud non arepere vel postquam citra terminū illū, in Anglia redierit a partibus S. &c.

¶ Protectio cum clausula volumus, lieth in case
 where a mā passeth ouer y sea in the kings
 seruice vnder any Lord, & if he will haue the
 said protection he ought to haue the seale of
 his lord (with whom he went) or a bil direc-
 ted to y gardein of the priuy seal for one such
 y wil go to him in the kings seruice, & when
 he hath a priuy seal he may haue his protectiō
 graūted of y Chācelloz. And know ye y eue-
 ry mā which hath y protectiō (Cū clausula vo-
 lumus) shal be acquitted of al maner of p̄lēs, ex-
 cept

Natura

cept pless of tower, Vnde nihil habet, Quare impedit, Assisa de nouel disseisin, vltimę presentationis, and except pless which are summoned before Iustices in Eire. But the protection shal not be allowed before any Iudge, for taking of bittaille or buying for the boiage in þ service, wherof the Protection maketh mention. And other wayes in pless of trespass, or contracts made or had, after the date of the same Protection, as will the statute 2. R. 2. cap. 8. which beginneth, Item assent &c. And know ye that in case that a man purchase this protection, for to delay any pless in disceit of the partie, or in any other maner, & he go not in the byage, after the maner of his protection, the party demaundant or plaintife may haue one Cerciorare out of the Chauncery to the Shirife (where such person dwelleth) for to certifie the King in the Chauncery thereof, whether he be gone or not, and the if the Shirife retorne that he is not gone in the byage but dwelleth in such place attending to his proper business, the party persuant may haue a patent (which is called Innoceissimus) to all people for to adnul the said protection, or other close writ directed to the Maior, Shirifs or bailifes commaunding them, that if the said protection be shewed before them, or any of them, in delay or disturbance of the demaundant or plaintife, they shal take the said protection, & that send into the Chauncery for to be there cancelled, & adnulled. And in the same maner shal the demaundant or plaintife haue to the Iustices of the common bank, or other

other Iustices that they shal surcelle to allow such Protections. And that they shall send the Protection into the Chauncerye as afore is sayd. And when any such protection is shewed before the Iustices for to delay the party (as afore is sayd) the by the statute de Protectionibus allocandis, made in the time of king Edward sonne to king Henry, the 33. yere of his raigne, is ordained certaine manner of proces, as appeareth in the said statute.

Know ye that a Protection, *q̄a profecturus* shal not be allowed in any plee commenced afore the date of that, if it be not in the byage where the king goeth himselve or other viages royal or in messages of the king for busines of the Realme. *An 13. R. 2. ca. 16.* And where a protection shalbe allowed in viage roial, hereafter appeareth.

In a Scire facias, to haue execution of a fine the tenant sheweth a Protection, *Quia profectur in comitiua*, with the protector of the realme & was allowed, and if he go by commaundement of the king in message &c. it shalbe allowed *H. 3. H. 6.*

In a *Præcipe quod reddat*, a protection was shewed for one, which went with the Earle of H. into Gascoine, and was challenged for that, that it was not viage roiall, & the commission of the Earle was shewed for the, which wil that the king made him his lieutenant, and gaue him power to pardon felony and treason, & to enquire of those which made resistance against him, and to make
coyne

Natura

coyne &c. And for that, that he hath power to enquire by special grant, y^e protection was allowed. D. 7. H. 6.

In det the parties demurred in iudgment: and the opinion of the court with the plaintife, and the defendant prayed that the iudgment might be respited vnto such a day, and it was sayd by the court, that if hee sued a protection in the meane time that it shall not be allowed E. 4. H. 7.

A protection was laide before (quia profecturus est) in the company of E. the kings sone into Irelande, and it was purchased hanging the writ, whereof it was not allowed, for that, that it may not be sayd by age royal, without he bring the kings host into Irelande H. 11. H. 4.

But knowe ye, that after Moyle, that a Protection of byage royal into Ireland, shall not be allowed. For they are within the iurisdiction of the realme. Otherwaies it is of Scotland, Therefore inquire what the law is. But after Littleton a protection (Quia moratur super saluam custod') shall be allowed. The same law shall be, Quia morat in pibus Vallia, but the booke is not adiudged. H. 7. E. 4.

In a Forzmond, a protection shall not be allowed, for the Gardeins of prisoners, which haue suffered men that be cōdemned, to go at large. Añ 7. H. 4. cap. 4.

A Protection shall not be allowed in a scire facias, vpon a trauers of office taken before the Escheto^r, or commissioners against any patent. Añ 33. H. 6. cap. 17.

Knowe

Know ye, that an infant, a woman couert may sue a protection. D. 12. C. 3.

Know, that it is said that if xx. of a com= minalty are by protection, & in the service of the king, the protection shall not be allowed but for them only. For if xx. of the cominality be in service of y king, notwithstanding that there be Major & cominality, yet the cominal= tie abideth at home. D. 13. C. 3.

Know ye, that when the defendant, which went to imparle, was demaunded to come with his answer, a protection was put be= fore, quia profecturus est, which was of elder date then was the imparlance, & that notw= standing it was allowed. Otherwayes it should be if the protection had ben, Quia mo= ratur in obsequio. D. 36. C. 3.

Know ye that if there be more in the pro= tection, then in the writ, the protection shal be allowed, but if there be lesse in y protectiō, thē in the writ, it is not allowable. D. 8. C. 3.

In appeale of Maim, a protection was sued for the defendant, & notwithstanding that the pleintife recovered nothing but da= mages, in this suit the protection was disal= lowed C. 19. C. 3.

¶ Protectio cum clausula nolumus.

REx omnibus balliuis &c. vt supra, salutem. Scia= tis quod suscepimus in protecc' nostram dilectū nobis in Christo Priorem de N. omnes fr̄as, res, red= ditus & omnes possessiones suas. Et ideo vobis mā= damus q̄ ipsum Priorē, terras, res, redditus & ōnes possess. suas manuteneatis, protegat & defendat non

Natura

non inferentes eis vel inferri permittentes iniuriam aut grauamen, & si quod eis forisfactum fuerit, id eis sine dilatione faciatis emendari. Nolumus enim, quod de bladis, fenis, carectis, carragijs, bob⁹, vaccis, vel porcis, ouibus aut alijs animalibus, victualibus siue ceteris bonis et catallis ipsius Prioris cont^e voluntatem suam ad opus nostrum aut aliorum per baliuos seu ministros aut alterius cuiuscunque quicquam capiat, teste &c.

This writ of Protection (Cum clausula nolumus) lieth in case where a mā is in doubt that the ministers of y^e king, or of any other, wil take his cozne, haye, horse, cart or such like. And know ye that this protection may be graunted by euery maister of y^e Chauncery without priuie seale.

¶ A writ of right De aduocatione ecclesie.

REx A. salutem. Precipimus tibi quod plenum rectum teneas VV, de L. de aduocatione ecclesie de N. quam clamat pertinere ad liberum teneamentum suum, quod de te tenet in L. per liberum seruicium vnus denarij per annum pro omni seruicio, quam I. de VV. ei deforc^r vt dicit. Et nisi feceris vicecomes &c. ne amplius &c. recti. Teste &c.

¶ Another writ that lyeth in the common banke.

REx vic^r N. salut^r, precipe A. quod iuste &c. redat D. aduoc^r ecclesie de N. quam ei iniuste deforc^r vt dic^r. Et nisi prædic^r D. fec^r te. &c. tunc sum^r &c. prædic^r A. quod sit coram Iustic^r nostris apud VV. vt supra.

This

This writt of De aduocatione ecclesie lyeth where a man hath right of Aduowson, & the parson of the church dieth, and a stranger to the present his clerk to that church, and he which hath right, hath not moued his action of Quare impedit, nor darrein Presentinet within the vij. moneths, but both suffer the stranger to usurp vpon him, then he shal not haue any other writ then a writ of right of Aduowson. And this writ he shal not haue if he clayme not the aduowson to him and to his heirs in fee. And also he may haue a writ of right of aduowson of the halfe, & the third part, or the fowerth part aswel of the whole (if he be forced.)

And know ye, that a writ of Right, Quod reddat aduocationem decimarum, is not graunted by the statute of Westmunst. ij. chap. 5. which beginneth, Cum de aduocatione ecclesiarum &c. which will that if the Parson of any church by a writ of Inducavit bee disturbed to demaund his dismes, his Patron shal haue a writ of right of Aduowson to demand the same dismes. But the writ of Inducavit lyeth of no lesse parcel, then of the fowerth part of the church; therefore no more to this writ, but yet after some men the writ lieth of lesse parcel at the comon law. And the proces in this writ is, Summons, Graund Cape & petite Cape after apparance. And the proces against the Iurie is the common proces, Venire facias, Habeas corpora & Distring. And know ye, if a man hold of the King a Manor by graunde Serieantie or by petit Serieantie, vnto the

D. j.

which

Which maner an Aduowson is belonging,
and hee wth sell oz grantt the Aduowson
in dismembzance of the seigniozie, the king
shall present to the first auoydance after &c.

Know ye, that in a Writt of right of Ad-
uowson brought by the kinge, the defendan-
t shall not proferre the halfe marke, ne iudge-
ment finall shall bee geuen agaynst the king.

And know yee, that in a writte of right
of Aduowson the tenant wth ioyne the mise,
and day is geuen to him vnto the feast of the
Purification of our blessed Ladie: at which
day hee cometh not, but cometh at the
thirde day after. Iudgement finall was ge-
uen vpon the default. P. 2. C. 3.

But if the Tenant in a writte of right of
Aduowson do knowledg the right of the
demaundant, Iudgement shall bee geuen,
that hee shall recouer the Aduowson: And
Iudgement finall shall not bee geuen, for
that that the mise was not ioyned. Mich.
33. C. 3.

A release of the plaintife him selfe, oz of
an other auncestor, by whom the discent is
not made, is a good barre without ioyninge
the mise, And iudgement final shalbe geuen,
M. 17. C. 3.

A writ de Assisa vltima præ-
sentationis.

REX vicecomiti Midd salurem. Si A fec' te securum
&c. tunc sum &c. duodecim liberos & legal' ho-
mines de vicineto de B. quod sint coram Iustic' &c.
parat' sacramento recognoscere qs aduocat' tempore
pacis

pacis presentatuit vltimam parsonam que mortua est ad ecclesiam de C. (vel vltimum vicarium q̄ mortuus est ad vicariam de N.) quæ vacat (vt dicit) & cuius aduocationem idem A dicit ad se pertinere, & interim ecclesiam illam videant, & nomina eorum imbreuiari facias, & sum B. qui aduocationem illam ei defore, q̄ tunc sit ibi ad audiend' illam recognitionem, & habeas ibi sum, & hoc breue. Teste &c.

This writ of Assise vltima presentationis lyeth where I or mine auncellor hath presented our clerke to a Church, & after our clerk dieth, so that the church is void, and a stranger doth present his clerke to the same church, & doth disturbe me: then I shal haue this writ, or a Quare impedit at my pleasure. But the Assise is more better. For in Assise I claime of my propre possession, or of the possession of myne Auncellor, But in the Quare impedit aswell the distourbor as I, claime the possession and right. And knowe ye, that where a man may haue assise of darrein presentment, he may haue a Quare impedit, but not the contrary. And the proces is, Summons, & Resummons against þ party, & against the Iurore, Summons, Habeas corpora et Distrec. And knowe ye, that in Assise of darreine Presentment & Quare impedit, a man shall recouer damages, if vi. monethes be past before his recouerie, hee shall recouer the value of the church by two yeares. And if the recouerie be before the vi. monethes be past, then hee shall recouer damages, that is to saie, the halfe of the Church for one yeare: And that with the statute of Westm. ij.

Natura

chap. 5. which beginneth, Cum de aduocatione ecclesiarum: and in the said estatute are ordey= ned thre writts originalls of aduowson of churches, that is to say, a writ of right of aduowson, which shall be determined by bat= tail oz graund Assise. A writ of Darreine presentment, and Quare impedit, which are of the possession. And if any man which hath no right to the aduowson to present his clerk in y tyme y the Aduowson was to any gar= deyne by reason of anie infant, oz in tyme of tenant in dower oz by the curtesie, for terme of life, for yeares oz in taile, yet the Statute will that when the church falleth boyde, and they in the reuersion after the death of the said tenants oz gardeyne be distourbed, they shall haue their recouerie by Assise of darreine presentment, oz quare impedit. But they in the reuersion shal not be ayded by the aforesaid writts, if the said aduowson be re= couered against the foresaid tenants & gar= dein, by iudgement oz inquisition, notwith= standing that the said tenants & gardein haue faintly defended their plæ, but the iudgment shall stand in his force, vntil such time that it be adnulled by the iudgement in the kings court by Error, Attaint oz by Certification, as the statute wil &c. Know ye, that in these cases, a man shall haue assise of darrein presentment though that he nor his auncestors had not the last presentment. As if I present, & after y church falleth void, & the bishop wth present by lyps as Ordinary, I shall haue this writ: & if my gardein do present, I shall haue

haue an assise of darrein Presentment. **P.**
20.E.3.M.6.E.2

Know yee, that if the Presentee do re-
signe, yet the writt shall say, qui mortuus est.
T.18.E.3.

Know yee, that the plaintife made this ti-
tle, that he himselfe was seysed and presen-
ted &c. and the writt was, Et summonas B.
qui aduocationem illam ei deforceat. And the
writt was challenged and not allowed for
that, that it is the foine of the Chauncerie.
M.2.E.3.

A writ of Quare impedit.

REX vicecomiti Midd' salutem. Præcipe A & B. q̃
iuste &c. permittant C. præsentare idoneam
personam ad ecclesiam de N. quæ vacatur et ad su-
am spectat donationē, vt dicit, & vnde queritur q̃
præd A & B eum iniuste impediunt, & nisi fecerint
&c. & tunc sum &c. præd A & B q̃ sint coram Ius-
ticiar &c. tali die ostens. quare non fecerint &c. Et
habeas ibi sum, & hoc breue. Teste &c.

This writt of Quare impedit lyeth where a
man hath purchased a manor, to the which
manor an aduowson is belonging: the parson
dieth, a stranger doth present his clark, then
he shall haue the said writt, and not assise of
darren presentmēt. And the proces is, in this
writt as in assise of darrein Presentment, as
is conteyned in the statute of Warlb. chap.
xij, Sommons, Attachement and one Distresse,
and if the partie defendant come not at the
Distresse, then the plaintif shal haue a writ-
ting to the Bishop of the place, that he may
D. iij. accept

Natura

accept his clerk to the said church, saving to the defendant another time his right (if there of he shall complaine.) And know yee, that in assise of darrein Presentment, & in a writ of Quare impedit dayes shall be geuen from xv to xv. and from iii. weekes unto thre weekes, as the place is distant. And that will the statute aforesaid.

Know ye, that if a Quare impedit be brought against the bishop & a stranger, and the Bishop disclaimeth saue onely as Ordinarie, and the other sayeth that he is parson in parsones of collation of the bishop: In this case the writ shall be awarded to the Metropolitane and to the bishop. *H. 19. C. 3.*

Know ye, that a Quare impedit was brought against a Prior as patron, & one A as Incumbent, & hanging the writ, the Patron dyed, yet the writ was maintainable against the Incumbent alone. *H. 9. B. 6.*

A writ of Ne admittas.

Rex &c. venerabili in Christo patri eadem gratia L. Episcopo, salutem. Prohibemus vobis ne admittas parsonam ad ecclesiam de N. quæ vacat, ut dicitur, & de cuius aduocatione contentio mota est in Curia nostra inter A & B, donec discussum fuerit in eadem curia ad quem eorum pertineat eiusdem ecclesiæ aduocatio. Teste &c.

This writ of Ne admittas lyeth, where one man impleadeth another by a Quare impedit, or by assise of darreine Presentment in the Kings Court. Then if the plaintife suppose that the bishop will present the clerk of the

defendant hanging the plee betwixt them of the said church, hee may haue the sayd writte directed to the Bishop, prohibiting him that hee present no clerke to the said Church before that it be discusled betwixt them, who hath right to the said church to present. But if they bee in plee, and the presentation not discusled, nor no recoverie within y^e sixe monethes, then the Bishoppe shall present by Laps: if the plaintife recouer, he shall recouer dammages, as is conteyned in the statute of Westm. ij. chap. v. And the proces is one Prohibition, & vpon the Prohibition, Attachment & a Distres. And know ye that if the defendant in a Quare impedit come not at the Distres, then the plaintife shall haue a writ to the bishope, that he shall accept hys clerk to the said church, sauing another time the right of the defendant &c. And this writ shall be Iudiciall, and is such.

REX &c. venerabili, vt supra, salutem. Sciatis quod cum B. in curia nostra &c. recuperauit presentationem suam versus C. ad ecclesiam de N. quæ vacat per defalt ipsius C. Et ideo vobis mandamus quod non obstante reclamacione præd' C. ad presentationem præd' B. ad ecclesiam idoneam personam admittatis. Teste &c.

A Vrit de Quare non
admisit.

REX vicecomiti salutem. Si A fecerit te securum de clamore &c. tunc sum' &c. B. Lincoln episcopum quod sit coram Iustic' &c. ostensurus quare
D, iij, cum

Natura

cum idem A. in Curia nostra coram præf. Iusticiariis nostris recuperasset versus C. præsentationem suam ad ecclesiam de I. per recogn. Assise ultimæ præsentationis ibi inter eos captam, propter quod mandauimus eidem episcopo, quod non obstante reclamatione prædicti C. ad præsentationem ipsius A. ad ecclesiam præd. idoneam parsonam admitteret: idem episcopus w. clericum præd. A. per ipsum presentat ad ecclesiam præd., admittere recusauit, in nostri ac mandatorum nostrorum contemptum, & consider Curia nostra præd. lesionem manifestam: & habeas ibi sum, & hoc breue. Teste &c.

This writ lyeth where a man hath recone-
red one aduowson of a church, & hee doth
send his able clerke to the bishop for to bee
presented to the said church, and the bishoppe
will not receiue him, then he which hath re-
conered shall haue the said writ. And this
writ is a writ of contempt and all times is
iudicial, & goeth out of the rolles of the Ju-
stices: but in time of vacation when þe Court
Atteth not, then it shall be made in the Cha-
cerie. And the proces is Attachment and
Distres. And a Quare non admisit pro rege hath
bene made and inscaled by some men with-
out making mention of any recovery before
made. And yet it is by the Prerogative of
the kinge.

Know ye, that this writ shall be brought
in the countie where the refusal was made,
for that, that he shal recouer nothing but da-
mages, and not the presentment, otherwise
the writ shall abate: but a Quare impedit shall
be brought in the countie where the church
is

is: for that that he shall recouer the presentment, and that is the diuerſitie. And if the biſhop admit him & make letters to the archdeacon to induct him, the biſhop is excuſed though that the archdeacon refuſed to induct him. And he is put to ſue againſt the archdeacon in the court Chriſtian, for that is a thing ſpiritual. And it is a good plea for the biſhop to ſay that he him admitted, and made letters to the archdeacon for to induct him without ſaying that he him inducted. An. 38. H. 6.

And if the writ, to admit his clerke, be directed to the vicar generall and he reſuſe, yet the Quare non admit ſhalbe brought againſt the Biſhop. H. 13. C. 3.

The Biſhop reſuſed to receiue a clarke and died, by which one prayed a writ againſt the archebiſhop of Caunterburie gardeine of the ſpiritualties, and to him was denied. But a writ was graunted to him againſt the garden of the ſpiritualties, but not againſt the archbiſhop, for that, that the firſt writ was not directed to him. H. 15. C. 3.

A writ of Quare incumbrauit.

REX vic' A. ſalutem. Si A. fecerit te ſecur' &c. Nunc ſum &c. B. Lincoln' epiſcopum, quod ſit coram iuſtic' &c. oſtenſurus quare cum idem A. in curia noſtra coram præfatis Iuſtic' noſtris recuperaret præſentationem ſuam ad eccleſiam de I. per aſſiſam vel recognitionem vltimæ præſentationis interitum inter eos capē, idem tñ epiſcopus pendente placito in præfata curia noſtra coram Iuſtic' noſtris
super

Natura

super captionem vltimę presentationis prædictę, ecclesiam prædictam incumbrauit in ipsius A. præiudicium non modicum & grauamen & contra legem & consuetudinem regni nostri. Et habeas, &c. Teste &c.

This writ lyeth where there is two pleading for the aduowson of a church, & hanging the plee by Bishop presenteth one of his clerkes within the vi. monethes to the saide church, then he that hath recovered shal haue this writ against the bishop. And know ye, that this writ lieth not but hanging the plee. for if it be out of the plee, & I send my clerke to the bishop for to be of him accepted, and he him refuse, and present one of his owne clerks, then I shal haue a Quare impedit, or darreine presentment as my case lyeth, & not the Quare incumbrauit. And the proces is Summons, attachement and distrelle. And know ye that when a Quare impedit, or a life of darreine presentment is brought against the bishop as disturber of aduowson of a church, þe bishop may not present because of laps after the terme of vi. moneths until the plee be determined betwixt him & the pleintife.

Know ye, that after the saying of Stoner that a Quare impedit lyeth not, but where a Non admittas is directed to the bishop hanging the writ. *W. 3. 1. C. 3. W. 18. C. 3.*

And note that this writ shalbee brought alwaies in the common banke, for that, that it is a common plee. In a Quare incumbrauit it is no plee to saie, that there is no such record here, nor it is no plee to saie, that the record

cord is sued in the kings bench and error assigned M. 17. E. 3.

Know ye, that a Quare incumbravit shalbe awarded against the bishop where he incumbeth within the time of vi. monethes notwithstanding that no action was purchased before. C. 21. E. 3.

A writ of prohibition.

REx archiepiscopo Cantuar, et eius commiss. salutem. Prohibemus vobis ne teneatis placitum in curia Christianitatis de catallis vel debitis unde A. queritur quod E. trahit eum in placitum in curia Christianitatis coram vobis nisi catalla vel debita sint de matrimonio vel de testamento, quia placita de catallis & debitis quæ non sunt de testamento vel de matrimonio spectant ad coronam & dignitatē nostram. teste &c. Eodem modo fiat alia prohibic' partine sequatur, mutatis mutandis.

Rex &c. venerabili in christo &c. vel eius offic' Raceorum commissar salutem, prohibemus, ut supra, de aduoc. eccles. de N. vel medietat vel tertie partis, & unde G. & E. vxor eius querit quod T. episcopus de L. trahit eos in p'sita coram vobis in curia christianitatis quia placita de aduoc. ecclesiarum spectant ad coronam &c.

This writ lieth where a man is impleded in court Christian of things, which toucheth no maner of matrimonie, nor testament, But such things, which toucheth the crowne of our soueraigne Lord the king, as Dette, Trespas, or of any such like which shall bee pleaded in the kings court, then he may haue the saide writ directed to the
ordina=

Natura

ordinaries, & officers, or commissioners of the said court Christian, them commanding to cease their plea. And also know ye that he may haue aswell a prohibition to the shirife, that the partie shal not pursue, and to the officials, or commissaries. And the proces is in this writ, the prohibition. And if the partie sue before the plea in court Christian, notwithstanding the prohibition, Then shall go out of the Chauncerie one attachement. And this attachement is returnable, if he cease not, then shall go the distresse.

Note out of what court a man shall haue a prohibition, and attachement vpon a prohibition. In a writ of Trespas brought in the common place, the parties being at issue, and hanging that, the pleintife sueth in court Christian, the defendant shall haue a prohibition out of the same place. An. 13. B. 6.

In a Quare impedit brought by the king against the parson of C. for that that he him disturbed to present to the vicarage of p same church, and before that writ was returned the parson hath sued a citatio against the presenter of the king: and he prayed prohibition: And to him it was graunted by the Iustices of the common place. C. 2. E. 4.

If a man make an othe to enfeoffe mee of his land: If I sue him in court Christian Pro lesione fidei: he shall haue a prohibition against the partie and the Judges also. And if a man and his wife do sell land (which is of the right of the wife) & the wife is sworn that shee shal not sue no Cui in vita. And after the

the death of her husband, shee bringeth her Cui in vita, and the other sueth her in court Christian, Pro lesione fidei, shee shall haue a prohibition. *C. 11. H. 4.*

Know ye, that if a man be sued in court Christian, of couenant broken without especialtie, or executozs are sued for a simple contract made by their testator. A prohibition shalbe aswarded, and yet the plaintife hath no remedie by the common law. *M. 22. C. 4.*

Know ye, if the bailife in court baron hold plee aboue xl.s. the defendāt may haue a prohibition: if one sweare vpon a booke, to paye certeine money, at a certaine day, & at the day he paieth not the money, and the other sueth him in court Christian, Pro lesione fidei, he shall haue a prohibition &c. *H. 16. H. 6.*

A writ of Indicauit.

Rex Iudici tali, & eius offic', vel eius commissario salutem, Indicauit nobis A. qd cū B. teneat ecclesiam de C. de aduocatione sua, VV. clericus clamans quartam partem eiusdem ecclesie de aduoc' E. R. trahit eum inde in placitum coram vobis in cur' Christianitatis: quia vero manifestū est quod prædict' A. iacturam sue aduocationis incurreret si prædictus VV. in placito illo causam illam optineret, vobis prohibemus ne placitum illud teneatis in cur' Christianitatis donec discussum fuerit in cur' nostra ad quē illorū pertineat eiusdē ecclesie, vel capell' aduocatus, quia placita de aduocatione ecclesiarū spectant ad coronā & dignitatem nostram, teste, &c.

This writ lyeth where a debate is betwixt two clarks in court Christian: of a church

Natura

or of part of a church, or for dismes, which amounteth at y least to the value of y fourth part of a Church, or to a greater part as the second part, or third part, then for that, that the patron of the clerke defendant shall loose his aduowson (if the clerke of the pleintife recouer in court Christian) and the pleint of the aduowson of the dismes, which amounteth at the least to the fourth part of the value of the church, belongeth to the court of the king, and may not be gained ne lost in court Christian: for that cause the patron of the clerke defendant shall haue in the Chancerie the said writ of Indicauit, directed to the clerke of the pleintife, or to the officers of the court Christian, commaunding them to cease their plee and pursue vntill that it bee discussed in the kings court, to whome the aduowson belongeth. And know ye, that the Statute of Westminster 2. Cap. 5. which beginneth Cum de aduocationibus ecclesiarum &c. in the end of the said statute is recited, that if the patron of the clerke pleintife be in such manner disturbed, he shall haue a writ of right de Aduocatione decimarum. And when the aduowson is discussed in y kings court, then the plee shal procede in the court Christian. And the proces is as in a prohibition: for it is a prohibition in it selfe. And know ye that a writ of Indicauit, shalbe betwixt four persons, two shall be patrons, and two shall be clerkes: whereof the one clerke claimeh to hold the church, or part of the church of the aduowson of one patron, and the other clerke

clerke, of the aduowson of the other patron, & if the dismes of the aduowson be demaunded in court Christian, and the dismes be not to the value of the fourth part of the church, then the prohibition shall haue no place. And know that this writ is not returnable, but if they cease not in their pursuit, he shal haue one attachement, and after the attachement returned, the distresse shal go out of þe rolles of the Iustices.

Know ye, that if an Abbot be parson in personae of the church of Dale, & he demandeth the fourth part of the dismes against one A. parson of the same church which is in of the presentment of a stranger. In this case the parson of his patron shall haue the Indicauit. And yet they are but thre parsons in all. And if a man hath iudgement to recouer dismes amounting to the balure of þe fourth part, and sentence diffinitive is giuen, & the defendant appealeth to the bishops court by the which the Bishop doth send a delegacie to certeine persons, and they make subdelegacie: In this case the partie shall haue þe Indicauit to the iudges subdelegacy. W. 12. C. 4

Know ye, that befoze the Libell be put in, in court Christian, he shall not haue the Indicauit, and it behoueth to him that wil haue the Indicauit to shewe the Libel to the Chauncelour. Pa. 31. H. 6.

A writ of Consultation.

REx iudici tali salutem. Ex parte VV. de H. persone Ecclesie de S, nobis est ostensum quod cum ipse nuper

Natura

nuper petierit coram vobis in curia christianitatis
versus I. de C. & C. de I. executores testam^t B. de-
functi secundum melius auer^t, quod fuit eiusdem B.
nuper parochiani dicti ecclesie defuncti nomine mor-
tuarⁱ, dictae ecclesiae debiti, ac praefati executi proces-
sum placiti praedicti coram vobis inchoati fraudulen-
ter machinantes impedire asserentes quod placitu
illud in curia Christianitatis de catallis & debitis,
quae non sunt de testamento vel matrimonio qua-
dam prohibitionem nostram ne placitum vobis di-
rigi procur^t, cuius prohibitionis praetextu in causa
illa hucusque procedere distulistis, & adhuc defer-
tis in ipsius VV. & ecclesiae praedictae graue pra-
iudicium, & inundacionis periculum manife-
stum, & quia in articulis, praefatis praelat^e & clerici
nostris per nos nuper concessis, plenius continetur
quod in decimis, oblationibus, mortuariis, quando
sub istis nominibus proponuntur prohibitionem no-
strae non est locus: vobis significamus, quod in causa
praedicta si vero de mortuarⁱ agat^r (vt praedict^e est) tunc
non obstant^r prohibitionem nostram ulterius facere po-
teritis, quod secundum formam ecclesiasticam fore
videritis faciend^e, teste, &c.

AND this writ lyeth in case where a man is
impleaded in court Christian, of things
which toucheth testament, or matrimony, &
the defendant doth purchase a prohibition in
the Chauncerie, directed to the ordinaries,
commaunding them to cease of their plee and
pursuit, by force of which prohibitio, the plee
is extinguished, then the plaintife shall come
into the Chauncerie, shewing the copie of
their plee contained in his bill to the Chaun-
celler, and then he shall haue the said writ
directed

directed to the ordinarie befoze said, comma= ding them to pursue forth in the pleæ, not= withstanding the prohibition befoze to them directed. And know ye, that a Consultation lyeth euer for the plaintife, that first moueth the pleæ in Court Chyistian.

¶ A writ of Vi laica remouenda.

Rex Vicec' salutem, Præcipimus tibi, quôd vim laicam & armatam quod B. tenet in prebenda A de C. in ecclesia de C. ad pacem nostram perturbandam sine dilatione amoueas ab eadē, & si quos tibi resistentes inueneris, tunc assumpt' tecum suffic' posse Comtui si necesse fuerit, eos per corpora sua attach, & in prisona nostra saluo custod', ita qd habeas coram nobis &c. vbicunq; &c. ad respondendum nobis de contemptu, & resistantia supradictis. Et habeas ibi hoc breue. Teste &c.

This writ lyeth where debate is betwixt two persons for a Church, & the one doth enter into the Church with great power of lay men, and doth holde the other out wryth force, then he that is holden out shall haue a writ directed to the Shirife, that he remoue the great power of lay men which is within the Church, and it shalbe commaunded to the Shirife, that if he finde any men making resistance, that he shall take with hym the power and ayde of his Countie. And al they that did resist shalbe attached by their bodies and put them into prison, untill they come befoze the king at a certain day to aunswere of the contempt, And this writ is returna= ble, and shall not be graunted befoze that the

E. 1.

Byshop

Natura

Bishop of such a place, or such a church hath certified in the Chauncerie by his writ of such resistance &c.

¶ A writ of Excommunicato capiendo.

Rex Vic' salutem, Significauit nobis R. venerabilis pater L. Episcopus, per literas suas patentes, quod R. propter manifestam contumaciam suam excommunicatus est, nec vult per censuram ecclesiasticam iustificari, quia veró potestas Regia sacrosanctæ ecclesiæ in querelis eiusdeesse non debet, Tibi præcipimus, qd' prædictum R. per corpus suum secundum consuetudinem Angliæ iustic', donec sanctæ ecclesiæ tam de contemptu, quam ei iniuria illata ab eo fuerit satisfactum, Teste &c.

This writ lyeth where a man is excommunicated by the Bishop, & if he will not be iustified by the Ordinarie, Then the Bishop shal send his letter patent to the Chaunceloz rehering the excommungement. And then shalbe commaunded to the Shirife of the same Countie, to take the bodie of him that is cursed, and by his bodie he shalbe chastised vntill he submit him selfe to the order of the holy Church for the contempt & wrong by him done. And this writ is a Iusticies. And if the Shirife will not make execution of the said writ, then shal go out a Sicut alias & Pluries, and after attachment, as in a Repleyn. And know ye, that if he that is excommunicated hath made agreement aswell for the wronge as for the contempt made to holy church. Then the Bishop shal send his writ to the king, certifying by the same writ, that he

he hath made agreement with holy Church for the contempt. Then shalbe commaunded to the Shirife of the same countie by a writ De Excommunicato deliberando, that he shall deliuer that same man which is in such manner imprisoned &c.

Know ye, that a certificat made by these persons of any excommengement is to no valure. If the Byshop certify excommengement by his letters, it is nothing to the purpose. An 30. E. 3. Lib. An.

The same law is, if the comissary of a Byshop certifie excommengement, but if it be certified by the Archdeacon of Richmond, or by the Deane and Chapter of Caunterburie, in tyme of vacation it shalbe allowed. E. 7. E. 4.

But if the Deane of saint Martins, or Abbot of saint Albons, or other like, which are persons exempt of every Ordinaries iurisdiction, certifie excommengement, it is nothing to the purpose, nor of no valure. Da. 20 E. 3. An. 12. E. 4.

The same law is, if a Byshop certifie excommengement made by another Bishop An. 33. E. 3.

And if the Byshop be dead before that the letter of the certification be shewed, it is voide. An. 8. E. 2.

The Baylifes and Communaltie of C. brought a writ of Rescous &c. and shewed all the matter, as appeareth in the case &c. And the defendaunt said, that at the time of the writ purchased, one J. & W. were bailifes
E. 9. and

Natura

and said that they were excommenged, and shewed the letter of the Byshop testifying the same, and for that, that the writ is taken by the Bailifes and Communalte without naming any person by proper name, and the letter of the Bishop proueth not for what cause the plaintife nor any of them are excommenged &c. the defendant was awarded to answer ouer &c. *Itin Kane. M. 30. E. 3.*

In Trespas the defendant sayd that the plaintif shal not be answered for that, that he is excommenged, and shewed the letter of the Bishop of M. testifying the same which was read &c. Quære if he haue a letter of absolution, if this writ shal abate or no, it is said that it shal not abate. But the iudgement shal be that the defendant shal go to God, & the plaintife shal not be amerced: but of vtilawie otherwise is, as it is thought: for there the writ shal abate. *M. 7. R. 2.*

A case brought by a Gardeine of an Hospitall, against the Archbishop of C. and W. P. and they alleaged that the plaintif is excommenged, & shewed a letter of the same Archbishop which proueth that he is excommenged at the instance of W. P. & for that, that W. P. and the Archbishop are parties to the Cause, they were charged to answer ouer. *M. 8. E. 3.*

¶ A writ of Excommunicato deliberando.

Rex venerabili &c. Episcopo salutem. Ostensum est nobis ex parte VV. qd' cum ad denunciacionem vestram ipsum per Vic' nostrum L. tanq; excommuni-

municatum clauos ecclesiæ contempnentem, præcipimus iusticiæ, Et idem in sub cautione idoneum absolutionis beneficium I. petierit vos ipsum contra iusticiam ad hoc admittere recusatis. Et ideo vobis mandamus, quod ipsum VV. cum cautione huiusmodi absoluatis, alioquin quod nostri est in hac parte exequemur &c.

¶ Aliter.

R Ex Vicecom̃ salutem, cum A. de H. quem ad denunciationē Episcopi venerabilis &c. tanquā excommunicatum per corpus suum, secundum consuetudinem Anglię per te iustificari præcipimus, donec sanctę Ecclesię, tam de contemptu, quā de iniuria ei illata ab eo esset satisfact. & iam ab Episcopō ipso absolutionis beneficium in forma iuris meruerit optinere, sicut idem Episcopus per literas suas patentes nobis significauit. Tibi præcipimus, quod ipsum A. a prisoŋa, qua detinetur, si ea occasione & non alia detineatur in eadem, sine dilatione deliberari facias, Teste &c.

This writ is as a Justices, and if the Sheriffe make not execution of this writ, hee shal haue Sicut alias and Pluries And know ye, that when a man hath continued in sentence by xl. dayes, and the Bishop hath sent hys writ to the kinges court, that he wil not be reconciled by the order of holy Church, the king shall send to the Shirife that he be taken, & put in prisoŋ, vntill such time, as hee will be obedient againe to the law of the holie Church. But if the excommenge (after that he be in prisoŋ) offer sufficiēt paxone, to be vnder the tuicion of holy Church, if the Bishop refuse such satisfaction, hee shall

E. iij. haue

Natura

haue this writ to be deliuered out of prison.

¶ A writ of Iuris vtrum:

REX Vicec' N. salutem, Si A. parsona ecclesiæ de B. vel sic, si B. Prior eccl' beatæ Marię de L. parsona ecclesię de B. fecerit te &c. tunc sum &c. xij. liberos &c. de viciner' de C. quod sint coram Iustic' nostris ad prim' ass. &c. vel coram Iustic' nostris apud VV. tali die parati sacram' recogn' vtrū vnum mesuag. cum pertiñ in C. sit libera eleemosina pertiñ ad ecclesiam ipsius A. de B. vel ipsius Prioris de B. aut laicum feod' I. vel sic, vtrum sit liber' eleemosina pertiñ ad eccl', vel ad capellā, aut &c. & interim mesuag. illud videant, & nomina eorū imbreuiari fac', & sum per bonos sum'm præd' I. qui mesuag. illud tenet, quod tunc sit ibi auditurus illam recogn', & habeas ibi sum, & hoc breue, Teste &c.

This writte lyeth, when the right of any Church is alpened and holden in lay fee, or translated in the possession of any other Church, and if the alpenor die, then his successor shal haue the said writ. And know ye that no man which hath couent or couent seale may maintain this writ. But a writ of Entre sine assensu Capituli, of the alpenation made in time of his predecessor, as appeareth clerely by a pleæ, in Añ 15. E. 3. where the gardein of the Hospital of S. praied in aide of y Bishop of S. & had no aide, because that the Hospitall hath couent seale. And know ye, that no man may vse a writ of Vtrum, if he be not named Parson. But now by the statute of E. the 3. Añ 14. ca. 16. which begynneth, Item est assent & estably, q Vicars, gardeines del chappels, Prouostes de Chaunteries perpetuals,

pur-

purront vser cest briefe de Vtrum des terres ou tene-
ments &c. And also J. of W. gardeine of the
Hospital of S. brought a Writ of Vtrum the
same yere, and was mainteined though that
the statute aforesaid maketh no mencion of
Gardeins of hospitals, but that was mayn-
teyned, because it was in like case. And
know ye, that the statut of West. 2. cap. 24.
which beginneth. In quibus casibus conceditur
breue in Canc', in which statut is conteyned
this clause, Eodē modo sicut concedit' b're Vtrum
aliquod tenementum sit libera eleemosina alicuius
ecclesie, vel laici feodum tale, de cetero fiat b're &c.
And this writ was not graunted but there,
where the almes of any church was transla-
ted into lay fee. Now it is ordayned in the
foresaid statut of West. 2. that it shalbe grā-
ted aswell there where it is translated into
the possession of any other Church, as there
where it is translated into lay fee. And the
proces is such in this writ, Summons & Re-
summons against the party. And in Assise of
Mortdauncester, & against the Jurors, Sumons,
Habeas corp, & Distres. And in this writ shal-
be geuen the same daies, as are geuen in as-
sise of Darreine presentment, & Quare impedit, as
it appeareth by the statut of Marlebridg. ca. 22
Know ye, that a recovery in Assise against
the plaintife selfe, is no barre; for that, that
this is a good writ of right, & p'ple is not but
to the Iurie, otherwise is, if he had pleaded
the estate of the plaintife selfe. H. 19. B. 2.

If the tenant plead a recovery in a Cessavit,
that is no barre, for that, that the right is

Natura

to be tried, but he shall conclude: and so, lay
see. *E. 7. D. 4.*

Know ye, that if a man recover in a writ of
Right against a Parson, in which plea he
hath not prayed in aide of his patron, in this
case his successor shall have a *Iuris vtrum*, and
the recovery in the writ of Right shall not
barre him. *D. 8. E. 3.*

In a *Iuris vtrum* brought by a Parson of a
chappell, the writ was mainteyned for hym
for that, that he took his title by present-
ment & institution, as a Parson of a church.
D. 8. E. 3.

¶ A writ of VVast.

Rex Vic, salutem, Si A. fecerit &c. tunc sum &c.
ostensur, quare cum de communi consilio regni
nostri Angliæ prouisum sit, quod non liceat alicui
vastum, venditionem, seu destructionem facere de
terrīs, domibus, boscis, seu gardinis sibi dimissis ad
terminum vite sue vel annorum, idem B. de domi-
bus, boscis, & gardinis, vel sic, de domibus, boscis,
& gardinis in N. quæ A. ei dimisit ad terminū an-
norum fecit vastum, venditionem, & destructio-
nem ad exhæredationem ipsius A. contra formam
prouisionis prædictæ, & habeas ibi &c. Teste &c.

Eodem modo fiat ad terminum vite, vel per legem
Angliæ, vel aliquo modo mutatis mutandis.

This writ lieth, where tenant for terme of
lyfe, or tenant in doſſer, or tenant by the
curtesie, or Gardein in chivalrie, or tenant
for terme of yeres, maketh wast, he in the re-
uerſion ſhall haue this writ, where by the
common law they had but a Prohibition of
wast. And this writ is geuen by the ſtatut
of

of Westm 2. cap. 14. And in the same Statute Proces is such, Summon, Attachment, & Distres. And if the partie come not at the distresse, then shalbe commaunded to the Shirefe that he inquire of the wast, & if the wast be found by the inquisition of the sayd Enquest, it shalbe returned, and the partie shall recouer treble damages, and the Enquest shall geue but single damages, and the court shall treble them, & also he shal lose the place wasted. And that is geuen by the Statute of Glouc cap. 5. which thus beginneth, Puruiex est ensement, que si home &c. And also the same Statute will, that if any gardeyne make wast, he shal lose the warde, but if the losing of the warde amount not to as much in value as the wast done, then thinfant at his ful age shal haue the said writ of wast & recouer his damages for the remnant. Also in case that the tenant for terme of lyfe, or of other persons lyues, make wast and let ouer his estate, then he in the reuersion shall haue this writ of wast against hym to whom the tenant for terme of life, or of other persons lyues, let his estate, and he shal answer of wast made in his owne time, for hee taketh the lande in such degree, as it was in tyme that the lessee let his estate, but otherwise is in case the tenant in dowry, or by the curtesie let ouer their estates, and they to whom the tenements are letted, do make wast, he in the reuersion shall haue a writ of wast agaynst those tenants in dowry, or by the curtesie, and not against the lessee, for none may be called

Natura

called tenant in dower, or by the curtesie, but the same tenants in dower, or by the curtesie. And it is said, that in case the tenant for terme of lyfe make wast, and surrender hys estate to him in the reuerſion, and he doth accept it, and manure the land after, hee ſhal neuer haue an action of wast, for that he was not constrained by the law to receiue or take the land: the same law is of the other aforesaid tenants. And know ye, that if land be letten to a woman ſole, & ſhe taketh a husband, & the husband maketh wast and dyeth, the wife ſhall aunſwere of the wast, & loſe the land, and yelde damages if the wast be found, for that, that it was her folly that ſhe would take ſuch a husband that would make wast. But otherwiſe is, where landes are letten to a man & his wife for terme of their lyues, and the husband maketh wast & dieth, the wife ſhal not aunſwere for þe wast made after his death, for this was the folie of the laſſor which letteth the land to the husband and the wyfe. The which wife ſhal not be charged of wast made in time of her husband. And know ye, that if the tenant for terme of life be diſſeiſed, and the diſſeiſor make wast, and the tenant for terme of life do recover by Aſſiſe, & ſuch matter found by the enqueſt, in a writ of wast, he in the reuerſion ſhall recover of the tenant for terme of lyfe damages, for the tenant for terme of lyfe recovered damages againſt the diſſeiſor, hauing regard to the wast made. And if the Gardein make wast, then ſhalbe done, as is contayned in
Magna

Magna charta ca. 5. Custos autem &c. But there
 where the king selleth or geueth the warde
 of lands or tenements of any infant wythin
 age to any man of the same seignorie, and
 the gardeine maketh wast, the king wil that
 he shal lose the warde, and shal be geuen to
 two lawfull men of the same seignorie. Al-
 so by the new statut of E. 3. An 14. cap. 12.
 all such landes which are in the hand of the
 king, because of a warde, shal be letten to the
 next frindes of the infant, to whom the he-
 rytage may not disceind (if they come hastily
 into the Chauncerie) after the Diem claudit
 extremum returned, and there offer to take the
 said landes, yelding to the king the value,
 vntill the age of the said heire as another
 man will yelde, without fraude or disceit,
 and shal haue a Commission to keepe the said
 landes and tenements, by good and sufficient
 suerty, to answer to the king, of the value
 of the warde by the accord of the Chaunceloz
 & Treasorer, and the heire shal haue an action
 of wast against them, when he cometh at
 his full age. And also by the statut of E. 3.
 An 36. cap. if the Eschetoz haue any such
 warde, & doth answer the king of the issues
 & maketh wast, the heire shal haue an action
 of wast, as wel wythin age as of full age, a-
 gainst the Eschetoz, & shal make fine at the
 kinges wil. And the frindes of the enfant,
 as long as he is wythin age, shal haue p^r suit,
 and thereof answer to p^r said heire of that,
 that so shal be recovered, when he cometh
 to his full age. And also in all cases where
 the

Natura

the heire within age may impleade, his next frinds shalbe receiued to pursue in his name. as appeareth by the statut of Westm 2.ca. 15 And it is said, that though the heire be of full age, and in his lande, yet he shal haue (if hee will) a writ of Wast against him that was Gardein to him or against him, to whom the Gardein let the warde, & after recouer damages. And know ye, that if the chief Lord infeffe any man of parcell of the same, that is in his ward, the heire shal haue A writ of Nouel disseisin mayntenant against the Gardeine & the tenant, and the Gardeine shal lose the Wardship of the same thing recovered, and of al the remnant that he holdeth in þ name of the heire for all his life. And that will the statut of Westm 1.cap. 47. which beginneth thus, Si gardeine ou chiefe seignior &c. And know ye that a writ of Wast shall not be maintained against the tenant by Elegit, nor against the tenant by statut Marchant, or by the statute of the Staple. But if they make wast, he in the reuersion shal haue a writ of Accompt, and the said tenants are accountable after the debt or damages leuyed. And know ye against tenant in Mortgage no writ of wast nor accompt is maintainable because that hee hath fee conditional. And know ye that by the statut of Westm 2.cap. 22. which beginneth. Cum duo vel plures tenant boscum &c. that if woodes, turbarie, or fishing be holden in common, of two or three men, and the one of them make wast, the other shall haue a writ of wast fourmed in
this

maner, Cúm A. & B. teneant boscum vel turbariam pro indiuiso, & fec' vastum &c. And if the wast be found, it shalbe in the election of the defendaunt to take his part that is assygned of the Shiris in the place wasted, or that hee graunt that hee shall take nothing in such woodes or turbarie &c. but as his partners will take. And if he will chuse to take hys part in a place certaine, the place wasted shal be to him assigned. And in case that he grafit in the court, that hee shall non take otherwise then his companions will, and after hee maketh wast, hys felowes shall byyng the said wozit, and if hee will take his election, as he did in the first wozit, he shall not be receyued, for the statute geueth but one election, and that he hath had, for the which these pleintifs shal recouer the place wasted.

And this wozit lyeth aswell betwixt them that holdeth for their lques, as betwixt them that holde iointly in fee, and aswell betwixt them that are in the tenement by dyuers titles, as by one title if they take the profit in common, and no man knowing his seuerall. As it appeareth Mich. 21. E. 3. fol. 1. When any ought to haue Estouers in any woodes, and the woodes be wasted and cut downe, then hee shall not haue Assise of Nouel disseisin, and that by the Statute of Westm 2. cap. 25. which begynneth, Quia non est aliquod breue per quod &c. And if hee be dyssesed of such Estouers and dyeth, his heire shall haue a Quod permittat de estouerijs. And also if the heire bee disturbed to haue esto-

Natura

estouers maintainant after the death of hys father whereof he dyed seised, the heire shal haue a Quod permittat of estouers in the place of Wille of Mortdauncester, the wryt is such.

REX Vic' salutem, Præcipe A. quod iuste &c. permittat B. habere rationabil' estouarium suum in bosco, vel in turbaria, vel in brue' ipsius A. in C. quod in eo vel in ea habere debet & solet, vt dic' &c.

And also in case if the heire be disturbed as before is said, the wryt shal say, quod permittat B. habere rationabile estouarium suum, in bosco ipsius talis in N. de quo C. pater prædicti B. cuius hæres ipse est, obiit seisitus in dominico suo vt de feodo. And knowe ye the executors may not maintaine a wrytte of Wast, but it shalbee maintainable.

It is sayd that a wryt of Wast lyeth at the common law against them whose estates are made by the law, as against the gardeine of a warde, tenant in dower, and tenant by the curtesie, and for that in such wryttes it needeth not to rehearse the statute. *H. 12. H. 4.*

If a man do manase or threaten any byleines which are regardant to a manor in another Countie, then where the manor is, so that they are cloynd and gonne away, the action of Wast shalbee brought in the Countie where the manor is, and there shal the Wast be tried, for the Wast is all tymes in the manor, but of trespass, peraduenture the law is otherwise. *C. 9. H. 6.*

In a wryt of Wast of a house, it is a good ples to say, that after the lease, the lessour
made

made the house against the wpyll of the lessee,
iudgement &c. And this is a good ples. H.

49. C. 3.

In wass the pleintife supposeth the wass
to be in dyuers thinges, that is to say, in a
grange, house, and cottage, and dyuers ples
were pleaded, as to the grange and cottage,
as appeareth in the case, and as to the house
he said, that it was feeble at the time of the
lease &c. and the pleintife said that you your
selfe, by this deede indented, which here is,
graunted to repaire and keepe by the sayde
house, in as good estate and better then they
were, when he them receyued, so is he
bound to repaire and keepe by the house &c.
iudgement if hee shalbe receyued, to say that
the house fell for feeblenes, & it was iudged
that this deede indented, shall not charge
him in this action of wass. H. 48. C. 3.

¶ A writ of Estrepament.

REX E. de P. salutem. Cum in statuto apud Glo-
cester dudum adic inter cetera continetur, quod
a tempore quo placitum motum fuerit in Ciuitate
London per breue, tenens non habet potestatem fa-
ciend' vastum vel estrepamentum de tenē, quod est
in demaund' pendente placit', & qd ead' ordinatio
& stat' in alijs Ciuitatibus & Burgis, & alibi, per
totum Regnum Anglię obseruetur, ac iam ex graui
querela VV. de T. accepimus, quod licet placitum
pendeat coram Balliuis nostris de S. per paruū
breue nostrum de recto, inter A. petentem & S.
tenentem, de vna bouata terri, prati, bosci, cum
pertinentijs in C. tu tamen vastum & estrepa-
men-

Natura

mentum fecisti, & indies facere non desistis pendente placito predicto, in ipsius VVill dispendium non modicum & grauamen, ac contra formam statuti & ordinationis predictorum, placito predicto pendente indiscusso. Teste &c.

This writ is in maner a Prohibition, and lyeth where a man is impleaded by a Prae-cipe quod reddat, of certein landes or tenements, and the demaundant supposeth that the tenant will make wast in the landes or tenements hanging the plee, then hee shall haue the said writ, as is conteyned in the statute of Glouc cap. 13. which begynneth thus, *Paruies est ensement que del heure &c.* And if the plee be moued in London, then the demaundant shal haue the said writ directed to the Maioz and Shiris, that they shal cause the tenements to be kept, and that no wast be made in them. In the same maner shalbee if the plee be moued afoze the Iustices, then the demaundant shal haue this writ directed to the Shirife of the same Countie, where these tenements are, to defende the tenant that he make no wast hanging the plee.

And knowe ye, that this writ lyeth properly when a man demaundeth any landes or tenements by a Formedon or writ of right, where he shall recouer no dammages but in case that he bring a writ, wherein he shal recouer dammages, then he shall recouer dammages hauing regarde to the wast. And also in case that he hath recouered by iudgement in the kinges Court, and the tenaunt after the iudgement geuen, and afoze that the
de

demaundant be put in possession by the shirif by force of a writ which is called habere fac. seisinam, he maketh distruction, then he shall haue attachment against the tenant, to be afoze the Iustices at a certaine day, to shewe for what cause he made wast, and there shall be mention made in the said writ of the recovery had befoze. And this writ shal go out of the Rolles of the Iustices, if it bee not in time of vacation when the Iustices are risen, and then it shalbe made in the Chauncery. And the proces is such, Attachment and distresse, & for default of distresse proces of vtlawry.

In Estreapement against an infant, hee praied his age, and was put out for that that it is but in the nature of trespass. In þ same plee it is sayd, that proces of vtlawry lyethe not in this action. H. 3. H. 6.

And if a man recouer lande, the which was sowen, and afoze execution sued, the tenant hath reaped the corne, and caried it away in this case he that recovered, shall not haue a writ of Estreapement, but an action of trespass. H. 28. E. 3.

¶ A writ of De homine replegiando.

REX vic' N. salutem. Præcipimus tibi quod iuste & sine dilatione repl' fac' A. quem B. cepit, et capti tenet, vel sic, quæ tu ipse cepisti & capti teneas vel quæ B. cepit, & tu ipse capti teneas vt dic' nisi capti sit per speciale preceptum nostrum vel capti Iustic' nostri, vel pro morte hominis vel foresta nostra, vel pro aliquo recto, quare secundum consuetudinem regni nostri Angliæ non sit replegiabilis. Ne amplius inde

Natura

clam aud' pro defectu iusticie, Teste &c.

This writ lyeth, where a man is imprisoned, which is repleuisable, then he that is in prison shall haue the sayde writte dyrected to the shirife, that he repleuy him which is in prison except he be in prison by especiall commaundement of the king, or of the chiefe Justice, or for the death of a man, or for the kings fozeft, or for any other cause (whereof he shall not be repleuisable.) And knowe ye that this writ is a Iusticies, & not returnable, but if þe shirife make not repleuin by this writ, then shall go out a Sicut alias, vel causam nobis, significes: and yet if he do it not, or if he may not do it, then shall goe out Cum pluribus vel causam nobis significes, which shal be returned. And if the shirife make not yet repleuin, then shall there go out Attachement against the shirif, directed to the cozoners of the same countie, that they shal cause the shirife to be attached, & ouer that, that they shal make execution of the first writ, and that by the statute of Westm 1. cap. 15. Pur ceo que les vic' & auters &c. the shirif, constables nor bailifes of fee shal repleuin any man that is not repleuisable: and if he that hath the keeping of prisons in fee doth otherwise, he shal lose the bailiwike for euer & shal haue imprisonment of thre yerres. And he that holdeth these prisoners (which are repleuisable) after that they haue offered sufficient suertie, shall be greuously amerced against the king.

And knowe ye, that if a man do a trespass within the fozeft, for which he is taken, and
put

put in prison and the gardeyne of the forest
 will not him releuin, nor let him to mayn=
 prise: a writt shall be sent to the shirife of the
 place to attache the said gardein, to be before
 the king at a certaine day, for to shew wher=
 fore hee hath not made releuin of the sayd
 man, and be it contained in the writt, that the
 shirife call the verdours, and the names of
 the maynpernours to make delyuerie to the
 sayd verdours, and aunswere the Cire before
 the Iustices. And that by the statute of
 Edward the third. An 1 Cap. 9. which be=
 ginneeth. Cum Hugh &c. And know ye that no
 man shalbe taken nor imprisoned for vert, or
 venison if it be not founde by verdict or en=
 dicement: in which two cases he shall let to
 maynprise by the wardeine of the office, or
 otherwise by writt, or the gardeine shalbe at=
 tached as is aforesaid. And the fourme how
 a man may be indicted for trespass of vert or
 venison, is contained in the statute, which is
 called Additio de foresta made in the time of
 king Edward, sonne of king Henry. An 34.
 And know ye, that for trespass in parkes a
 writt of trespass is given to the party, to reco=
 ner his damages, or els the king shall haue y
 suit after the yere and the day, as is mentio=
 ned in the statute of Westm 1. cap. 20. which
 beginneeth. Puruiou est enlement que malefactors
 in parkes ou en viuers &c.

¶ A writ of Replegiare de auerijis.

Rex vic' saluē. Precipimus tibi quod iuste &c. re=
 pleg. fac' A, de R, aueria sua, quę B. de VV. cepit
 ff. ij. &

Natura

& iniuste detinet vt dic'. Et postea cum inde iuste deduci facias. Ne amplius inde clamorem audiamus pro defectu iusticie. Teste &c.

This writt shall go out of the Chauncery, directed to the shirife, that he make deliuerance of the beasts of the tenant which are in name of distresse And if the shirife serue not the writt, then shalbe made as is aforesayde, De homine replegiando. And know ye that in taking of beasts by things are necessary, that is to say, very lord, very tenant, seruice behinde, the day of the taking, seton of the seruices, and within his fee. And know ye that a man is not very tenant vntil he hath attorned to the lord by some seruices. And know ye that a man may haue a repleuin, aswel by plaint to the shirife or bailifes of the fraunchise, as by writt. And know ye that the statute of Westm 2. Cap 2. which beginneth. Quia dominus feodorum &c. wil, that if the tenant haue repleyned his beastes by writt in the countie, the lord shall haue a pone out of the Chauncery, dyrected to the shirifes that he remoue the plee, which is in the county or in other court, betwixt one such lord, and one such tenant into the kings court, & the pone shall say: Pone loquelan que est in com tuo per breue nostrum, inter I. & K. de auerijis ipsius I. capis & iniuste detentis &c. And also the defendant may remoue, but not without reasonable cause as it appeareth more plainly by the Register. But if the plee be without writt in countie or in court Baron, then may the plaintife remoue the plee into the common banks

banke by the Recordari facias. And in the same maner may the defendand wyth reasonable cause. And knowe yee, that if the Lord that distrained, do distraine another time after y that the shirife hath made repleuin by writ or without writ, aswell afore the pone or the recordare as after, and for the same thing, for which he took the distresse, afore the plain- tife may haue a writ directed to the shirife for to attache the Lord for to be before the Iustices of the common banke at a certayne day to aunswere, wherefore he took the se- cond distresse for the same cause, if the dys- tresse be made after the pone or after the re- cordare, then the writ shal commaund the shi- rife, that he haue the bodie of the Lord be- fore him and his coroners at his next coun- tie, & if the Lord be conuicted of the seconde distresse taken for the same cause, by the same bailifes which made the repleuin, or by other good people of the same countie, then he shall be amerced so greuouslye that his chastise- ment, in casu consimili timorem alijs prebeat ta- liter delinquentibus exemplum. And this writt is maintayned by the statute of Marl Cap 3. which beginneth, Ne quis maior aut minor. And the proces is in this writ of pone, somons, Attachmēt, & distres. And for default of dis- tresse, proces of vtilawye against the defen- dant. And that appeareth in a marueilous case that the Lord shal haue the pone, for by the common law, the defendand shal not haue the pone, and the Lord in this case appeareth to be defendand, when y tenant hath brought
f. iij.
against

Natura

against him a repleuin, but it is not so here, for as much as the Lord distreined his tenāt. for the seruices and suits, which to him were due. And therefore it shalbe intended that he is demaundant, and not defendant. And this clause shall bee put in the pone. *Quia talis distinxit in feodo suo pro seruicijs sibi debilis &c.*

In repleuin it is a good plee for the defendant to say, that the propertie of the beasts, was in one such and not in the playntife. *H. 20. H. 6.*

If the lord distraine his tenant, notwithstanding that the tenant haue agayne his bestes, hee shall haue a repleuyn, for that that hee maye not haue an actyon of Trespasse. And it is a good plee to say, that the playntife hath nothing but in common *D. 33. E. 3.*

And in a repleuin brought in by dyuers persons, the defendant may say, that the propertie is in one of these plaintifs & not to al. And if a mā take a false writ of repleuin, by the which the defendant hath returne, the plaintife shal haue a new repleuin, and so he may haue of as many false writs as he will, for that that y statute doth remedy but one suyt onely. *D. 1. H. 6.*

If a man in a repleuin aduowse the taking of the distresse &c. & the distresse is corne in the sheaves, that is no good aduowse, for it is said that a mā may not distreine wheat in sheaves, ne other maner of corne except that they be in a cart, for a man may not distreine
in

in shokes, for the losse that may folloſwe in scattering of the ſame corne &c. And ſo it is of money, if it bee not in a bagge ſcaled, for that, that one peny may not be knowne by the other, and that appeareth in trespas. *H. 21. C. 3.*

He that is a ſtraunger to aduoſwry ſhall charge the aduoſwant, to aduoſwe vpon him though he claime not by him, vpon whom the aduoſwry is made, if he may lay ſeiſin by the plaintifes hands, for if the aduoſwant accept him for his tenant though that he come in by diſſeiſin or otherwiſe he ſhall aduoſwe vpon him. And it is ſaid in the ſame plea if *h* bayliſe make cogniſance and the *L*orde ioine to him, the plaintife ſhall recouer dammages againſt the lord. And if the lord aduoſw for the ſame cauſe, the bailiſe is maintenant out of the court. *H. 18. C. 3.*

If a rent be graunted to me, and another, & my fellowe releaſeth to me, I ſhall make aduoſwry for al the rent, & yet I am by ſeueral titles, but it is conuenient *h* I ſhewe the releaſe in mine aduoſwry. *C. 33. C. 3.*

Hee that hath eſtate of one copercener, ſhal aduoſw for a rent graunted vpon *h* party wout deede, & ſhewe the matter in his aduoſwry whoſe eſtate he hath. *C. 3. C. 3.*

If the meſne be foriudged, the *L*orde ſhall aduoſwe vpon the tenant for the arrerages in the meane time afore the foriudger &c. for he may not aduoſwe vpon the meſne, in ſo much that the meſnalty is extinct. *H. 7. C. 3.*

J. iiij.

*q*A writ

Natura

¶ A writ of non admittas.

REX vic' salutem. Cum per breue nostrum tibi p-
cepim⁹, quod aueria A. que B. cepit & iniuste de-
tinet, vt dic' eidē A. repl' fec', vel causam nobis sig-
nifices, quare mandata nostra tibi inde directa exe-
qui non potuisti aut noluisti, ac balliui C. de VV.
quibus returnum breuis nostri tibi inde directi ha-
bere fecisti, nihil inde facere curauerunt, prout nobis
significasti, precipimus tibi quod propter libertatem
prædictam non omittas quin eam ingrediaris, & a-
uef prædict' eidem A. sine dilac' repl' facias eodem
tenore breuis nostri inde tibi directi. Teste &c.

This writ lieth where any writ is directed
to the shirife for to do the kinges cōmaun-
dement. And the shirif doth retozne the writ,
and sayeth that he hath sent to the bailifes
of the fraunchise, which haue retourne of
writtes, within which fraunchise the writ
shal be serued, and the bailife serueth not the
writte, then the partye plaintife shall haue
the said writ directed to the shirif (Quod non
omittat &c. quin exequatur preceptum domini, re-
gis &c.) And also a man may haue auerment
aswell against the bailife of the fraunchise,
which hath whole retozne of the kinges writ,
as against the shirife, as wel of smal issues so
returned as in other cases, as it appeareth by
the statute of E. 3. añ 1. ca. 5. And as it is cē-
tained in the statute of West. 2. cap. 39. in the
mids, which beginneth: Multociēs etiā &c. that
the shirife shal warne the bailife, that he be
afoze the Iustice at a certaine day, as is con-
tained in the kinges writ, and if he come at þ
day limited, and him acquite, that the shirife

to him directed not any pzecept, then the shirife shalbe condemned to the lord of the franchise, and yelde damages to the party greeued. And if the bailif come not at the day assigned, or him acqute, then al the writs Judicialles, which shal go out of the banke to the shirif (during the iame plee) shalbe called Non omittas &c. And the shirife shal make execution of all the writs during the plee. And in this case the lord shall lose the franchise hanging the plee. And know ye, that if the plee of VVithernam be in the county, and the shirife sende to the bailife of the franchise for to repleuin the beastes or goods, which are taken in the name of distres, and the bailife will do nothing, then the sherife of his office may enter in the franchise without writ, As appeareth in the statute of Mart' ca. 21. which beginneth: Prouisum est etiam, quod si aueria &c. And also the statute of West. 1. cap. 17. which beginneth: Puruiem est enlement que nul &c. And therefore it is not holden in the one case ne in the other &c.

¶ A writ of withernam.

REX vic' salutem: Cum pluries tibi precepimus qd iusté et sine dilatione repl' fac' A. aueria sua, quæ B. cepit & iniusté detinet (vt dicit) vel causam nobis significares quare mandata nostra tibi inde directa exequi noluisti aut non potuisti, ac tu nobis significaueris quod postquam prædictus B. auer' prædicti A. cepit in com' tuo, et ea a comitatu illo fugauit de com' in com', ita quod inueniri non potuerunt. Nos maliciæ prædicti B. obuiare volentes in hac parte, tibi

Natura

tibi precipimus quod aueria prædicti B. in balliua tua capias in Vithernam, & ea detineas donec aueria prædicti A. replearis iuxta tenorem mandatorum nostrorum inde tibi directorum, Teste &c.

This writ lyeth where the lord distreineth his tenant for certayne seruices, or suits, and the lord doth chase the distress to a fortele, or to a castell, or out of the same county where the distress was taken, into another county, or otherwise, so that the shirife may not haue the sight of the beastes, for to make repleuin, or in such lyke maner as appeareth by the Register. And if the tenant bring his writ of Repleuin, Sicut alias & pluries, and the shirife retorne that he may not haue þe sight of the distress, for that, that the distress is chased to a fortele, or castell, or out of one countie into another, then the said tenant shal haue the said writ &c. And know ye that by the statute of Westm 1. cap. 17. which beginneth: Puruiem est enlement, que nul deforme &c. that if any enclose the beast, which he hath takē in name of distress, in a fortele or castell, that the shirife may do as is contained in the same statute, at the suit of the plaintife, that is to say, the shirife shall go to the castell, or fortle, and there warne the Lord, or hym that took the beastes, to make deliuerance, & if he will not make deliuerance, then he shal abate the castell or fortle for the trespass and despite done to the king. And know ye, that if the distress be taken within a fraunchise, & the baylife of the fraunchise will not redeliuer, then the shirife after complaynte to him made,

made, may deliuer the distresse by his officer,
As it appeareth in the statute of Mart' cap.
21. which beginneth: Prouisum est etiam, quod
aueria &c. And the proces is in this writ, as
in the Pone.

Know ye, that in a Repleuin at the Pluries
it was returned, aueria elongata sunt, and the
defendant appeared, and notwithstanding a
Vithernam was awarded, and for that, that
it was awarded erroneously, the Iustices a-
warded a Superedeas for the defendant, to the
shirife to surcease, and if hee haue taken the
beastes of the defendant that he them restore,
and the shirife returned, that befoze the super-
edeas to him deliuered, he hath deliuered the
beasts of the defendant to the plaintife. And
that the plaintife the hath esloined, y he may
not them restore to the defendant. And the
defendant appeareth, & pleadeth to the origi-
nal that he tooke them not, & praieeth a wicher-
nā against the plaintife. And the court said, y
if the plaintife wil not swage deliuerāce, that
he shal haue it. M. 7. C. 4. 15.

In a Repleuin after anowry, the plaintife
is nonsuit, & the defendant sueth a writ de
Returno habendo, and the shirif returned, that
they were esloined. In this case he shal not
haue a Vithernam befoze y he hath sued a sci-
re facias against his pledges. So know yee,
how a wicher-nā shalbe awarded against the
plaintife. C. 7. R. 2.

Note ye that the shirife may award a wi-
thernam in his countie where the repleuin is
sued by plaint, for otherwise it shalbe in vaine
to

Natura

to sue a repleuin befoze him, if hee may not make proces *M. 2. H. 6. H. 9. E. 4. 48.*

Know ye, if the beastes of the defendant be taken in VVithernam, the shirife ought not to deliuer them to the playntife, but ought to kepe them vntil the defendant wil deliuer the other beastes first taken. For the writt will *Quod capias &c. & detineas quousque &c.* And *p* is to be entended in the common bank, otherwise is in the kings bench. And so know the diuersitie. *M. 2. H. 4. 9.*

The shirife may take xx. Oxen in VVithernam, notwithstanding the repleuin be but of one Ox. And if *p* repleuin be of pots & pans, he may take in withernam Oxen and other goods. *An 22. H. 6. M. 31. E. 3.*

¶ A writ of Libertate probanda.

REx vic' salutem. Monstrauit nobis A. quod cum ipse liber homo sit, & para' libertatem suam probare, B. clamans eum natium suum vexat eum iniuste. Et ideo tibi precipimus, quod si praedictus A. fecerit te secum de libertate sua probanda, tunc ponas loquelam illam coram Iustic' nostris ad primam assisam, cum in partes illas venerint, quia huiusmodi probatio non pertinet ad te capiend', & interim eidem A. pacem inde haberi fac', & dic' praefat' B. q' sit ibi loquelam suam versus praedictum A. inde persecutur' si voluerit. Et habeas ibi hoc breue &c.

¶ A writ de Natuo habendo.

REx vic' salutem. Precipimus tibi quod iuste, & sine dilatione habere fac' A. natium, cum omnibus cat' suis, & tota sequela sua vbicunque inuentus fuerit

fuerit in balstua, nisi sit in dñico nostro qui fugit de terra sua post coronationem domini H. R. prog. nostri. Et prohibemus tibi super forisfact, ne quis eū iniuste detineat, Teste &c.

Aliter si manserit in dominico per minus tempus, quā per vnum annum & vnum diem, tunc fiat pro domino natiui hoc breue.

R Ex vic' salutem. Precipimus tibi quod nisi A. quē B. clamat natium suum in com' tuo per breue nostrum manserit in dominico nostro de N. per vnum annum & vnum diem sine calumnia non remaneat loquela prædicta in comit' tuo, ed quodd māserit in dñico nostro per minus tempus &c.

These writtes lye for the Lord, when hys niese is fled from him, then the Lord shall haue these directed to the shirif, in what county soeuer the niese is abiding or dwelling, & he cause the Lord to haue his niese with all his goods. And know ye that in such writs mo niefes may not be demaunded then two. But mo niefes may bring the writ of Libertate probanda, and that is in fauour of libertie. And if the niese purchase his writ of Libertate probada befoze that the Lord purchase his Pone, he shalbe in peace vnto the next assise of Iustices in Eire: but if the Lord purchase his pone befoze the niese purchase his writ of Libertate probanda, then the writ of Libertate probanda is nothing worth for the niese. And in this writ it behoueth, that the lord proue, that he was seised of him, or of his bloode. And if the lord can proue no seisure of any of his bloode, he shal winne nothing, if the niese haue not knowledged him selfe, in Court of recorde,

Natura

recorde, to be his villeine. And know ye, that if two coparceners bring a writ of Natio habendo, and the one is nonsuit, The suite of both shall faile, and that is in fauour of libertie.

And know ye by the statute of E. 3. An 23 De prouif. victualium ca. 18. that notwithstanding the adioynmēt in Eire in fauour of niefs, for delaying their lordes of their actiō against such niefs, the lordes shalbe receiued to alledge exceptions of villenage against their persons in al writs, where that the said writ of Libertate probanda is purchased by disceit, & the lordes may seise y^e bodies of those villeins aswell as they may afore such writs of Libertate probanda were ordayned or purchased. And looke the statute of Ric. the 2. ca. 6. An 2. which beginneth. Al greuous plaints que touchent lestar de villeins &c.

And know ye, that if the villeine of any lord haue dwelled in auncient demesne of the king, by the space of a pere and a day, without sclander of the Lord or claime, he may not haue him by no writ out of y^e said aunciet demesne. But it is said, if he be found out of aunciet demesne, y^e lord may seise him as his villein. And know ye y^e this writ is bicountiel, & not returnable, but it may be remoued by a Pone out of the County, into the cōmon bank, as it is said. And know ye in case y^e the lord be not able to distraine his villaines, to cause them make & do their seruices, he may haue a bill directed to the shirife, for to be appling to him there, wher he is not sufficiēt &c.

¶ A writ de Moderata misericordia.

REX balliuis A. de I. (vel tali domiñ, vel vic') salu-
tem, Monstrauit nobis A, q̃ cum ipse nuper a-
merciend' esset in cur' tua de N. vel in cur' prædicti
domini tui de I. p̃ modico delicto in q̃ incidit, ac tu
(vel vos) ab eo grauem exigis (vel exigitis) redempti-
onem, contra tenorē Magnæ carte de libertatibus
Angl', in qua continet̃ quod nullus liber homo a-
merciē, nisi scdm̃ quātitatē delicti, & hoc saluo cō-
tento suo, & villanis saluo vvinagio suo. Et ideo ti-
bi vel vobis præcipimus quod a præfato. A modera-
tam capias (vel capitatis) misericordiam, secund' quā-
titatem delicti illi', ne clamor ad nos inde peruene-
at iteratus. Teste &c.

This writ lyeth in case where a man is a-
merced in Countie or court baron, more
greuously then he ought to be amerced, in ha-
uing no regarde to the quantitie of the tres-
pas, then he shal haue the sayd writte to the
shirife, if it be in County, or to the bailife, if
the plaint be in court Baron, that they shall
not amerce him ouer greuously, but after the
quātiny of the trespass. And if they moderate
not the amerciament by this writ, then shall
there go out a Sicut alias, vel causam nobis sig-
nifices. And know ye: that the Register in this
case geueth no other proces after the Sicut a-
lias, but a Somons. Et ideo quare. And if they
do nothing by this writ, then shall go an at-
tachement out of the Chauncery against thē,
that they be before the Iustices at a certaine
day, and after the attachmēt retorned, if they
come not: then shal go out a Distres, & for de-
fault of a Distres, proces of outlawry.

And

Natura

And know ye that no man shalbe amerced by the law, but hauing regarde to the quantity of his trespass. A marchant sauing his merchandise, and a villaine sauing his garnage, hauing regarde to the quantite of the trespass, as appeareth in Magna carta cap. 14. Nullus liber homo amercietur &c. & in West. 2. cap. 6. which beginneth. Et nul citey, borough, ne villein, ne nul home amercie sans reasonable encheson &c.

¶ A writ de Transgressionem.

Rex vic' salutem. Si A. fecerit &c. tunc pone B. &c. quod sit &c. tali die ostendat quare vi & armis in ipsum A. apud N. insultum fecit, & ipsum verberauit, vulnerauit, & male tractauit. Et alia enormia ei intulit, ad graue dampnum ipsius A. & contra pacem nostram. Et habeas &c. Teste &c.

Aliter de querela. Ostendat quare in querela ipsius A. apud F. foderunt, & petras ad valentiam xx. li. sine licentia & voluntate sua ceperunt &c.

Aliter de columbis. Ostendat quare columbare ipsius A. apud T. nocturne fregit, & columbas suas in eodem colubari existentes malitiose interfecit, per quod idem A. volatum eiusdem columbaris totaliter amisit, & alia enormia &c.

This writ lyeth where a Trespass is made or done to any man or woman, and supposed that the Trespass is done with force and armes. Then he to whom the Trespass was made, shall haue his writ, & in this writ he shall recover damage.

And note ye, that the statute of Westminster 1. cap 37. which beginneth. Pur ceo que ascun gent

gents de la terre &c. a man shall haue a writ of Attaint in plee of London, or freehold, or of a thinge that toucheth freehold. And now by newe statuts of ass 1 E. 3. cap. 6. Attaynts shall be graunted in writs of Trespas aswel vpon the dammages, as vpon the principall. And the Chauncelloz hath power to graunt this writ without ipeaking to the Kinge. And that the Iustices in no case of attaint shall let for to take Attaints of the dammages not payed. And by the statute made An. 5. E. 3. ca. 7. in the ende, A man shall haue a writ of Attaint in plee of Trespas, moued before the Iustices without writ if the damages adiudged, passe xl. s. And after by the statute of the same king Anno 28. chap. 8. A writ of Attaint shall be graunted aswel vpon a bill of Trespas, as by a writ of Trespas without hauing regard to the quantitie of the dammages. And after by the statute of the same kinge Anno 34. chap. 7. A man may haue Attaint aswel of plee reall, as of plee personall. And that the writ of Attaint be graunted to poore men, that will sweare they haue nothing, whereof they may make fine, sauing their countenance, they shall haue it without fine, as all other shall haue it for the fine.

And know yee, that a writ of Trespas ne Attaint shall not be mainteyned, if the damages passe not xl. s. before Iustices. And no shirife shall hold plee in countie, if the damages passe xl. s. And that is ordained by the statute of Glocest. chap. 8. which beginneth:

Natura

Puruiew est enlement que viconts &c. And this writ shall not be removed into the common bank with cause nor without cause. But if the plee be in county, and without writ, it may be removed afoze the Justices, because y the plee toucheth frehold, or in case that y defendant do clayme the plaintife to be his villein, & such like cases. And also this writ hath bene of Record by such cause: that the ground where the trees grew, was the freehold, contra quem clamor est: and the proces is in this writ, Attachment & Distres, and for default of Distres, thre Capias and an Exigent proclaimed in five counties.

In a Trespas it was said: If a lease be made to a man for terme of yeres, & after the terme is expired, and the lessee holdeth him in, & the lessor entreth not: that for the occupation after the terme, this writ of Trespas will not lie. C. 22. E. 4. 13

It was said in Trespas &c. that for the misuser of a thing taken for damage felonant, a man shall be charged as a Trespassor from the beginning: & so it is of a distres taken, if it be misused &c. And in this case if y defendat will iustifie for damage felonant, & the plaintif shew how he hath misused that: & so of his owne wrong, that is no good replication: But he shall shew the misuser & no more: for the law in it selfe ought to seeke that out. B. 22. E. 4. 47

In Trespas a dinerstie was put: when a man is impleaded for not doinge of a thinge that he ought to do: and when he hath done a thing

thing that he ought not to do: for in the first case he thinketh that he shal not be punished by action of trespass, Quare vi & armis, but an action upon the case lyeth: but in the other case hee shall be punished Quare vi & armis. Quere tamen. H. 12. H. 4.

In Trespas, quare filium & heredem abduxit &c. and for that, that hee shewed not that the marriage to him belongeth, exception was taken: but for all that (as it is thought) it is not allowable: for it may be, that the ancestor of the Infant held of the plaintife by knightes service: and yet he shall not haue a marriage, for he may hold of another by Priuilegie. H. 12. H. 6.

In Trespas against thre, they pleaded not gilty, and found gilty, the one dieth after the enquest taken: yet the plaintife had iudgement to recouer against the other that were alive. C. 2. H. 6.

In a writ of Trespas of waistes taken, the defendant iustified as bailife for seruices behind &c. And the plaintife said, that he was not bailif &c. & whereof they swore at issue: the plaintif shewed in euidence, how he toke them in claiming them as heriots for him selfe. Thorp. Though that the Lord after agree to his taking for seruices due to the lord, yet he may not be said his bailif. But if he take them without commaundement for seruices due to the lord, & the lord after agree to the taking, he shalbe iudged as bailif, though he was not his bailife in no place afore the taking: & so know the diuersitie. H. 7. H. 4.

Natura

In Trespas of two Charters taken away, the defendand pleded not giltye, & was found giltye to the dammages of xl.s. And was pleaded in arrest of iudgment there, that the plaintife shewed not in his declaration, how much land was comprised win the charters, & not allosed. And diuerſitie was put betwixt this action, & a writ of Detinue of Charters: For in Detinue he demandeth the charters, & there he ought to shew p certaintie of the land: for if the charters be burned, he shall recouer damages after the value of the land comprised &c. But in this action he demandeth not the charters, but is to punish the defendand for the taking away, and the plaintif hath iudgment to recouer. And note this good diuerſitie. C. 19. E. 3.

A writ of Disceit.

R Ex vicecomiti salutem. Si A. fecerit &c. tunc poñ B. &c. q. sit &c. ad respondendū tam nobis q. prefat. A. quare p. quoddā breue nrm p. finem C. solidū ad opus nrm p. breue præd. capiendōr nomine prædict. A. hoc penitus ignorantis fraudulenter et malitiose in Cancellaria nostra impetrauit in deceptionem Curie nostræ, et ad graue dampnum ipsius A. vt dic'. Et habeas ibi nomina pleg. et hoc breue. Teste &c.

And when it is Iudiciall,
it is such.

R Ex vicecomiti salutem. Ex parte A. nobis est ostensum q. B. in curia &c. falsō et in deceptionē eiusdē curi nræ recuperauit seisinam suam versus eundē

de tribus mesuag. cum ptiñ in E. vt ius ipsius B. per defaultam ipsius A. cum idem A. nunquam sum fuit secundum legem terræ, essendi coram Iustic' nris apud westm. &c. ad respondendū præd' B. de placito præd': nec prædicta mesuag. nunquam capta fuer in manum nram ob aliquam defaultam ipsius A. nec idem A. iteratò sum fuit essendi &c. apud westm. ad respondendum præd' B. tam de prædicto principali placito, quàm de defaulta prædicta, prout mos est in regno nostro. Et ideo tibi præcipimus, quòd distringas A et B primos sum, per quos B. vic' nr com prædicti mand' Iustic' nostris apud w. quòd sum prædict' A. essendi &c. apud w. &c. ad rñdendū prædict' B. de placito prædicto. Et etiam L. vnum per cuius visum et quorundam T S. H et I. qui mand' Iustic' nris apud w. q' prædicta tertia pars capta fuit in manum nram. et etiam w. vnum de scdis sum, per quem vic' mand' Iustic' nostris apud westm q' A. sum fuit essendi &c. apud westmonast. &c. ad respond' p'd B. tam de principali placito, quàm de prædicta defaulta, et omnes terras &c. octabis Purificat' ad certificandum prædictis Iusticiarijs nostris, simul cum prædict' A. T. S. H. et I. de sum in captione prædict', ad audiendū iudicium suū de plu' defaultis. Præcipimus etiam tibi, quòd distr' prædictum G. nuper vicecomitem comitat' prædicti, et omnes terras, res, redditus &c. quòd sit &c. ad præfatum terminum ad certificandum simul &c. et ad audiendū iudicium suum &c. Et tu ipse tunc sis ibidem in propria persona tua ad certificandū præfatis Iusticiariis nostris simul &c. Et habeas &c. Teste &c.

This writ of Disceit is some times original, and some times iudiciall. But when it is original, then it lyeth in case where any

Giij.

Disceit

Natura

disceit is made to a mā by another, by which disceit he may be disherited, or otherwise evil intreated, as it appeareth by the Register, then he that is in such maner disceined, shall haue the said writ. And the Proces is, Attachment and Distresse, vntil the partie appeare. And when it is Iudiciall, then it lyeth out of the rolles of Record. As in case where a Scire facias is sent to the shirife, that he warne a man to be before the Iustices at a certeyne day, and the Shirife retorne the writ serued, where the sayd man was not warned, by which disceit the partie that sueth the Scire facias recouereth, then the party which ought to haue bene warned, shall haue the said writ against the partie which hath recouered directed to the shirife of the same countie. And also it lyeth in case where a Præcipe quod reddat is brought against a man: By force of which writ he shall be summoned to be before the Iustices at a certaine day, & the shirife hath returned, that he was summoned, where he was not summoned: vpon which faile returne & disceit of the shirife, the demandant shal recouer seisin of þ land by the default of the defendant: then he to whome þ disceit was made, shall haue the writ directed to the shirife of the same countie, that he cause the partie to come, which hath recouered, and also the somoners, to aunswere of the disceit and falsenes, that they haue made aswel to the king as to þ partie. And it shall be commanded to the shirife, that he take the land into the kinges hand, if the one or the other

other hath the land, vntil the plee be discussed
betwixt them, & the shirif shal aunswere and
make accompt in this case, of al þ issues, that
commeth of the land in the mean time, to the
Barons of the Eschequer. And know ye,
that if the somoners die afore that they bee
examined, the plaintiff in this action shall ne-
uer recouer the land: but then he shall haue a
writ of disceit vpon his case against the shi-
rife and recouer against him all in damages.
And know ye, that when this writ is sued
against the shirife: the Coroners of the cou-
tie shall make execution of the writt as the
shirife shall do, if the writ were brought a-
gainst a stranger. And so it shalbe done in all
cases, where proces is made against the shy-
rife in his countie. And now by the new sta-
tutes of E. 3. anno 2. cap. vltimo, A writ of
disceit shalbe maintained, & shall hold place
aswel in case of garnishmēt, which toucheth
plee of land, there where such garnishment
is due, as in case of Hommons in plee of
land &c.

Know ye, that if Disceit be made in the
kings bench, Chancerie oz in the Eschequer,
this writ shalbe brought in the places where
those disceits were made, and not elsewhere.
But of Disceit befoze Justyces of trial
Baston, oz of Oyer and Terminer, after
office determyned, a writte of Dysceit shall
bee brought in the common Bank, and it is
conuenient for him to haue the Record, if
disceit be made in any other place. And know
ye, that a writte of Dysceit lyeth agaynst
the

Natura

the attornei : if he be absent by Disceit. *M.*
22. *E.* 3.

And know ye, that a writ shal not abate
for default of forme, if he haue good substance
And if attornei be informed by his master to
pleade a false plee, the which hee may not
plead by conscience, he may haue such entre,
quod non fuit veraciter informatus, ideo nullum
&c. for to aide him in a writ of Disceit. *M.*
16. *H.* 6. *E.* 9. *E.* 4.

A writ of Disceit was graunted by the
Iustices in a writte of wast, where at the
graund Distres the plaintife had a writ to
inquire of the wast: and by the inquisition
wast was found, by which the plaintif hath
iudgement to recouer, where the defendand
was neuer somoned, attached nor distrained,
and the writt mainteyned. *E.* 19. *E.* 3.

A man recovered in a *Præcipe quod reddat*
against iij. of certaine land by default, one
died, these ij shal haue a writ of disceit if they
were not somoned, notwithstanding that the
action was geuen to the third in his life, for
that, þ it falleth in inheritance: & it was said
that if the iudgment be geuen against two
by default, wherof the one was tenant, & the
other hath nothing, he that was tenant shall
haue a writ of disceit, notwithstanding that
the Record proueth these two to be tenants.
And also it was said, that the king shal haue
the issues of the land after the first iudgmēt,
& not the party which recovered by disceit.
And also it was said that the heir shal haue
a writ of disceit of iudgment tailed against
his

his father of certeine land, but he in the reuerſion ſhal not haue a writ of iudgemēt tailed againſt his tenāt for terme of life &c.

A writ of Reſcuſſe.

REx vic' ſalutem. Si A. &c. tunc pone &c. B. quod ſit &c. apud VV. &c. oſtē, quare cum idem A. per H. ſeruientem ſuum quendam equum ipſius B. apud N. in feodo ſuo pro conſ. et ſeruic' ſibi debitis capi feciſſet, et idem H. equum illum ibidem ſecundum legem et conſuetudinem regni noſtri Anglię inparcare voluiſſet, et prædict' A. equum illum vi et armis reſcuſſet, et alia enormia &c. ad graue, &c. Teſte &c.

This writ lyeth, where any lord diſtreineth his tenant in his proper fee, for certeine rents, or ſeruices, or cuſtomes behind, and the tenant come with force and armes, and will not ſuffer the lord, nor his ſervant or him to take the diſtreſſe, but to them make reſcuſſe, then the lord ſhall haue the ſaide writ. And alſo if any bailife, or miniſter of the king, or of any other lord, to whom ſpeciall auctoritie is giuen to diſtreine, and reſcuſſe to them be made, they ſhall haue the ſaid writ. And in the ſame maner may the ſhirife or other bailife, which hath power to take any man by the kings commandement, if reſcuſſe to them be made. And a man may haue the ſaid writ in many other caſes, as appeareth by the Register moze plainly. And the proces is in this writ, Attachement and diſtreſſe, & for default of diſtreſſe in. Capias & one Exigent, as in a writ of Treſpas for it is

Natura

is supposed that he made rescusse with force and armes against the peace.

Know ye, that if the lord come to distreine his tenant, and see the beastes: and the tenant chase them from him, the lord shall not have a writ of rescusse, for that, that he hath no possession of them in deed, but he may follow and take them whether soever they be chased. C. 14. H. 4. C. 44. E. 3.

If a man take beastes damage fasant, and in driving them by the high way to enpound them, the beastes enter in the house of their possessor, and he that took the beastes paid deliuerance, and the possessor will not them deliuer, a writ of rescusse lyeth. An. 3. Iti- nere Post.

A writ de Audiendo & terminando.

REX dilecti et fidelibus suis S. et VV. salutem. Scia-
tis quod assignauimus vos iusticiarios nostros ad in-
quirendum per sacrum proborum et legalium hominum
de comitatu S. per quos rei veritas melius sciri poterit,
qui malefactores et pacis nostre perturbatores blanda
I. ad valenc' x. li. apud N. inueniunt vi & armis ceperunt
et asportant. Et alia &c. ad graue &c. et contra pacem
&c. ad transgressum illam audiendam & terminandam
secundum legem et consuetudinem regni nostri Anglie.
Et ideo vobis mandamus quod ad certos diem et locum,
quos ad hoc prouideritis premissa expleant in forma predicta,
facturi inde secundum quod ad Iusticiarios pertinet in hac parte,
saluis nobis amerciamen- & alijs ad nos inde spectantibus:
mandamus enim vicario nostro cum predictis, quod ad
certos diem et locum quos &c. venire faciat coram
vosbi

vobis tot et tales probos et legales homines de com-
prædicto per quos rei veritas melius sciri poterit et
inquiri. In cuius rei testimonium has literas no-
stras fieri fecimus patentes. Teste &c.

This writ lieth in nature of a writ of
trespas & lieth where any affray or tres-
pas is made to any man against the peace of
our soueraigne lord the king, the which af-
fray or trespass is hastily to be redressed and
amended, or otherwise there shalbe great
hurt of peace or dispaire of the life of y same
man, then he which is in such maner affraied
or trespassed, shal haue y said writ, but he shal
come to the king & to his counsell & shew in
a bill the maner of the affraye. And if he see
that it be to do, he shall graunt to the partie
the said writ directed to the shirif of the same
countie, that he cause to come befoze the Ju-
stices assigned, to heare and determine this
affray, or trespass, tot et tal probos, &c. These
which shall trye such affrayes and trespasses.
And also the Iustices assigned to heare and
determine these affrayes or trespasses, shall
haue a commission open, in which shall be
contained what they haue to do, and what
shall be their power. And knowe ye, that
the writ which shall go to the shirifes is
such.

REX vic. salutem. Assignauimus dilectos &c. R. &
VV. tibi scire facias quod venire facias coram eis
tot & tales &c. de comitatu tuo, per quos &c. om-
nes illos quod &c. et quorum idem R. & VV. tibi
scire fac' si prædictus I. fec. & tunc pone &c. quod
fuit &c. Et habeas &c. Teste &c.

And

Natura

And note that these writs shall not be granted, but by the king & none hath power to heare and determine such affrayes but the kings Justices, & sericants which be sworn to the king, and that is giuen in the statute of Westminster. 3. Cap. 39. which beginneth Breue de transgressionē &c.

A writ of Errore corrigendo.

REX Maiori & vic' Lond' salutem. Quia in recordo & processu ac etiam in redditione iudicij loquel quæ fuit in curia nostra ciuitatis prædictæ coram vobis præfat' vic' sine breui nostro inter A. & B. de quadam transgr' eidē A. per præfat' B. illat' vt dic' error interuenit manifestus sicut ex querela eiusdem B. accepimus. Nos errorem si quis fuerit, modo debito corrigi & partibus prædict' plenam & celerem iusticiam fieri volentes in hac parte, vobis præcipimus, quod recordum & processum loquelæ prædictæ coram vobis in pleno hustingo nostro ciuitat' prædictæ venire, eaque in præsentia partium prædictarum per vos super hoc si interessē voluerint præmunierend' recitari, & diligenter examinari, & errorem (si quis interuenerit) in hac parte debito modo corrigi, & partibus prædictis plenam & celerem iusticiam inde fieri fac' prout de iure et secundum consuetudinem ciuitatis prædictæ fuerit faciend' &c. Vel sic, vos præfat' vic' prædict' execut' p securitatem coram vobis inueniend' vel faciend' ad respondend' eidem B. &c. et interim supersedeatis &c.

This writ lyeth in case where false iudgement is giuen in the common banke before Justices assigned for to take assises, or before the Mayoꝝ and Sherrifes of London, or

in any other towne franchised, then he against
whome the iudgement is giuen shall haue
this writ directed to the Iustices or other
ministers before whome the iudgement was
giuen. And if false iudgement be giuen in
London, then shalbe made as before saide in
the writ of false iudgement, that they make
the record and proces of iudgement to come
before the Iustices of the kings bench. And
also that they cause to swarne the partie,
which recovered, to be afore the same iudges
of the kings bench to pursue forth in his
plee, as the kings court shall awarde. And
know ye that when the recorde and processe
are come before the Iustices aforesaide, they
shal correct and amend the iudgement if that
right may be made the parties. And knowe
ye: that a writ may not be mainteined, but
if the iudgemēt be of record, for if the iudge=
ment be giuen in court baron, countie, or in
hundreth, which is not of record, then the
partie shall haue a writ of Faux iudgement,
and not a writ of Error. And if any be im=
pleaded before Iustices, and the partie take
exception before his aduersarie which excep=
tion the Iustices will not allowe, then the
partie ought to do as is ordeined by the sta=
tute of Westminster. 2. Cap. 13. which be=
ginneeth, Cum quis implacitatus &c. that is to
saye, that the partie shal write his exception
and praye one of the Iustices to put his seale
to the bill, and when his bill is sealed he shal
go to the Chauncerie of our soueraigne lord
the king, and put vp the bill to the counsell.
And

Natura

And then the king shall make the whole record to come before him. And if the said exception be not found in the record, then shall he be commanded to the said Justices, that he be afore the king at a certeine day, at which day, if he come and may not denye his seale, then shall be commanded to him that he go forth to the iudgement, according to the saide exception. And knowe yee, that the Register giueth a writ of Error, of faux iudgement given before the Shirife and his Coroners in countie, or in a writ of Post disseisin, and shall be redressed in the kings bench. And in the same manner it may be in a writ of Reddisseisin, and the cause may be, for that, that these writs of Reddisseisin, and Post disseisin are of record, for they shall be inrolled in the Chauncerie and the transcript of them shall be put in the Eschequer in the ende of the yeare. As it appeareth by the Statute of Westminster 2. Cap. 8. in the ende which beginneth, Cum per placitum motum. And knowe ye, that a writ of false iudgement shall be returned before the Justices of the common bank. But a writ of Error shall be returned before the Justices of the kings bench. And knowe ye, that if error be made in the Eschequer, it shall be redressed by the Chaunceller and treasurer, as it appeareth by the Statute of Edward the third. Anno 31. Cap. 12.

A lise brought against the gardeine of a chappell of the kings graunt. And the plaint was

was of land and rent, and hanging the assise, the gardeine resigned to the king, and he gaue that to one J. S. and the assise passed for the pleintife, and J. S. was put out, & brought a writ of Errour as succellour, & assigned for errour that his predeceffour was not named gardeine, and that the king was seised hanging the assise, and it was awarded, that the writ lyeth for him, & the iudgement reuerfed. The same law is of a Prebendarier. But he that purchaseth, hanging the writ against his feoffor, he shall not haue a writ of Errour, for that, that he commeth to that by his owne dede, and not by course of the lawe. C. 15. E. 3.

If a Quareimpedit or trespass be brought against many, and one confesse the action, or plede so that he is attainted, he shal not haue a writ of Errour, vntill that matter be determined against these other, for the record may not be remoued befoze that all the matter be determined, and after that, he that confesseth the action may haue a writ of Errour. Pa. 34. H. 6.

If a writ of Dett be brought against two by one ioynt Præcipe, and the proces is by seuerall Precepts, that is Errour. Pa. 7. H. 6.

If the tenant in especiall taile hath issue a daughter, and lose by erronious proces & after hath issue a sonne by another woman, the daughter shall haue a writ of Errour, & not the sonne. For that, that shee is heire to the speciall taile, and the sonne is heire at the common law. Pa. 7. H. 6.

¶

Natura

If erroneous iudgement be given in the kings bench the same terme, it may be redressed by writ of Error in the same banke, and the rolle shal be amended: for that, that all times the same terme the record is in the Iustices, and the roll is but their remembrance
D.7.H.6.

If a recoverie be tailed against the tenant in taile, for terme of life, he in the reuersion shall haue a writ of Error, and reuerse that by the comon law so that the statute is not but in affirmance of the common law. The statute is Anno 9. Richardi secundi Cap. 3.
H.21.H.6.

And know ye that there is a diuersitie betwixt a writ of Error and a writ of Faux iudgement: for that that faux iudgement is not of record, until such time that it be heard. And if the writ by which it is remoued be abated, it is come without warrant. Then it shall continue before the suitors, for it is as no writ. But otherwise is in a writ of Error, for that was a record before. And a record may be brought in the kings bench by a Judge of the common place without a writ but these suitors may not without writ.
Pa.7.H.6.

And a writ of Error lyeth all times against him, that is partie or priue, notwithstanding that he be not tenant: for that, that the error ought to be tried by the record. But in false iudgement the writ shall be all times against the tenant of the lande notwithstanding that he be a stranger to the iudgement

iudgement, for that, that these errors shalbe tried by auerrement, and not by the recorde: for that, that it is not a Recorde, whych auerrement none shal haue, but the tenant of the land. *H. 18. C. 3.*

¶ A writ de Conspiratione.

*R*ex Vice? salutem, Si A. fecerit &c. tunc pone &c. A. C. ostens. quare in conspiratione inter eos apud R. prahabita ipsum A. de quibusdam latrocinij, & alijs transgressionibus per ipsum, contra pacem nostram apud W. in com S. indictarent, & ipsum A. occasione predicta apud S. cap? & in prisiona nostra detent? quousq; in curia nostra coram dilectis & fidelibus R. & VV. Iustic? nostris ad gaolam nostram apud S. deliberandum assign? inde, secundum legem & consuetudinem regni nostri Anglie acquietatus fuisset, false & maliciose procurauerunt ad graue dampnum ipsius A. & contra formam prouisionis in huiusmodi casu prouisæ. Et habeas &c. Teste &c.

*T*his writ lyeth in case where many men are confedered together, by othe, couenant or by other communication, that euery one shall helpe other, for to destroy, indict, kyl, or cause to appeal any man, then he that is in such maner appealed or indicted by such conspirators, & be acquite by the countrey, hee may haue the said writ against the said conspirators, as it appeareth by the statute De Conspiratoribus, made in the time of king E. sonne of king H. 34. And that the Iustices assigned to heare and determyne ples of trespas or of felony hath power to enquire
H. 1. of

of such conspirators. And the proces is Attachment and distresse vntil they come. And that a writ of Conspiracie lyeth not against these indictors, As it appeareth by the statut of Westm 2. cap. 12. which begynneth. Quia multi per malicia &c. which will y a man shal not haue a writ of Conspiracie of no appeale which shalbe determined befoze Justyces which are of recozde, for it shalbe enquired of thabbettors befoze them selfe. And if any be found abbettoz, he shal haue a writ Judicial against these abbettoz, the which is geuen in place of a conspiracie. And also a man may haue a writ of Conspiracie where he is indicted wythin a Citie, Bozough, or other tostone of any act or deede made within the place where they haue Coroners wythin their fraunchise, when he shalbe acquitted afoze the Maioz & the Bailifes of the tostone, and that shalbe sufficient to recozd the delyuerance, if he be another time peached of the same felony in the kings Court. And that euery such indictment of the act made within the tostone, the Maioz and the Bailifes may delyuer him from the gaole, and also where a felon is mainprised within the same Citie or bozough: but if a felon be indicted out of the fraunchise, and after is taken within the fraunchise, the Maioz and the Bailifes may not haue the conulance without lycence of the kings Justices, which are assigned by writ to deliuer the gaole of the same county, but of them selves they may not &c. And the Justices assigned to heare & determine pless of

of Trespas and of felony, hath power to enquire of such conspirators, & the proccs is vt supra.

If a man conspire to indict another, & after the conspirator is swoine in the enquest to present for the king, and hee doth enfourme his felowes, that the said J. S. hath made such a felony, and afoze that the verdict bee geuen he is put out of the panel, a writ of Conspiracie lyeth against him, but if he had bene discharged after verdict, he had ben discharged of the conspiracie, for that, that the law intendeth that all that was made afoze was lawfully made, for that, that it is excused by his othe. H. 20. B. 6.

A. and B. by false conspiracy betwixt them made, procured certaine people to indict C. of the death of one D. by force of which hee was indicted & arraigned of the death of D. and he knowledged and iustified, by force of which he went quite by iudgement, in thys case C. shall not haue a writ of Conspiracy, for that, that D. knowledged the felonie and of that was acquitted by force of the law, as of a thinge which was not felonie by the law, and it was not to A. and B. to knowledge whether it was felonie or no. An 22. E. 3. Lib. All.

If one procure dyuers people to endict me, and after he that procured hath a Commis-
sion, and afoze him I am indicted: I shall haue a writ of Conspiracie against hym, and hys Commis-
sion shall not excuse hym of the wronge made before, and so is it if

Natura

a man be swozne for to enforme thenquest,
this other shal not excuse him. Añ 27. E. 3.
Lib. II.

¶ A writ de Compoto.

R Ex Vic' salutem. Præcipe A. quod iuste &c. red-
dat B. rationabile compotum suum de tempore
quo fuit Balliuus suus in C. & receptor denariorum
ipsius B. vt dic'. Et nisi fecerit, & prædictus B. fecerit
te secur' &c. tunc summoñ &c. prædictum B. quòd
sit &c. ostensurus quare non fecerit &c. & habeas
&c. Teste &c

This writ of Accompt lyeth in case where
any Bailife, chamberlaine, or recepuer,
which ought to yelde hys accompt, will not
accompt yelde, then he to whom the compt
ought to be geuen shal haue the said writ.
And the proces is Summons and distresse,
and for default of distresse iij. Capias & an
Exigent, which shalbe proclaymed in fyue
Counties. And knowe ye, that by the statut
of Westm 2. cap. 11. which begynneth, De
seruientibus, Balliuis &c. that the Bailife render
accompt, & if he be found in arrerages, these
Auditors which are to him assigned hath
power to commit him or deliuer hym to the
next gaole, and there to abyde vnder good
keeping, vntill hee make grece, but if hee bee
sued, and in the suit outlawed whereby hee
is taken and put in prison in the gaole, then
he is repleuisable. And let the Shiris, Bai-
life, or Gardein of the gaole, take good heede
that he be not let to mainprise without writ
elpe:

especially to him directed vpon the said mat=
 ter, or without the kings lycence, that if hee
 do, he shall yelde to the Lord his damages,
 and that wil the statut aforesaid. And know
 ye, that executors of executors shall have an
 action of debt, of accompt of goodes taken of
 the first testatour in the same maner as hee
 should haue if he were in full life. And know
 ye, that the same executors shal aunswere of
 so much as they haue recouered of the goodes
 of the first testator, as the first executors if
 they were on liue. And that will the statute
 of Ed. 3. An. 15. De prouisor' victualium ca.
 5. And know ye, that by the statut of West.
 2. cap. 23. executors shall haue a writ of Ac=
 compt, and the same action and proces as the
 testator should haue had if he were on lyue.
 And also by the statute of Ed. the 3. An. 4.
 cap. 8. executors shall haue an action of tres=
 pas made to their testator, of goods and cat=
 tels of the testator taken away in the life of
 the testator, for to recouer damages against
 the trespassor in the same maner, as these to
 whom they are executors should haue if they
 were on lyue. And also by the statute of
 Marleb. cap. 17. which begynneth. Prouisum
 est etiam &c. if the Gardeine in socage make
 wast, the heire when he commeth to his full
 age shall haue a writ of Accompt against the
 gardeine, in this maner. Si A. fecerit &c. tunc
 sum B. quod sit &c. ostens. quare cum de communi
 consilio Regni nostri Angliæ prouisum sit, quod
 custod' terrarum & tenementorū quæ tenentur in
 locagio, haered' terrar' & tenement', cum ad plenam

Natura

etatem perueniunt reddant rationabile compotum suum de exitibus terrarum & tenementorum prouenient de tempore quo custodiam illam habuerunt ratione minoris ætatis hered' predictorum: idem B. prefat' A. rationabile compotum suum de exitibus prouenient de terris & tenementis ipsius A. in N. quæ tenetur in socagio, & quorum custod' idem B. habuit dum prefat' A. infra ætatem fuit, reddere contradic', vt dic' &c. Teste &c. And know ye, that if the pleë be in countie by a swrit of account, the partie plaintife may remoue the pleë into the common bank by the Pone, as in a Repleuin. And also it may be remoued at the suit of the defendant, but not without good cause, And it is to know, that in the Eschequer at the suite of the Citizens of London, it was awarded that there where a man impleadeth another by swrit of Account, or by plaint after the vsage, and Auditors be assigned by the Court, the partie shal not haue a swrit of Ex parte talis, but there where the Lord assigneth auditors, then the partie shal haue a swrit of Ex parte talis.

The swrit was brought against a woman, and it was challenged for that, that there is no such fourme in the Chauncerie, and notwithstandinge it was awarded good. M. 9. B. 6.

The swrit was tempore quo fuit Balliuus suus in C. and the swrit was challenged for that, that there is two C. and one without addition, & the swrit awarded good. B. 44. C. 3.

The swrit was tempore quo fuit Balliuus sui predecessoris, & was challenged for that, that
at

at the common law he had no action, and the statut helpes him not, but the defēdant durst not demurre in law. H. 31. C. 3.

In a writ of Accompt against a gardeine in socage, it was not shewed by the writ, ne by the declaration that he is next friend, for the which the writ was challenged and not allowed. H. 22. C. 3.

In accompt of x. li. by the handes of A. B. the defendant said, that he made a deede to the plaintife and to the same A. B. which testifeyeth the receipt, iudgement wythout shewing the deede, this is a good plee in discharge of accompt, and not in barre. An i. H. 6.

In accompt of the receipt of C. li. the defendant said that accoꝝd was taken betwixt the plaintife & the defendāt by their frends, that the defendant in full satisfaction shall make to the plaintife an obligation of the said C. li. for all debtes, detinues & encrease-ments, that to y^e said plaintife may encrease by reason of the receipt &c. And that was holden a good barre. An 22. H. 7.

It is a good plee for the defendant to say, that he hath accompted afore the plaintyfe selfe at such a place. D. 4. C. 3.

In accompt against one as Recepuor, the defendaunt said that the plaintife deliuered the money to him, and that he should go to Lumbarde for to make exchaunge and to receyue letters of exchaunge, by force of whych hee receyued the letters, and these delpyuered to the plaintife, without that hee
was

Natura

was his Recepuoz in any other maner, this
was holden a good barre. *H. 5. H. 5.*

¶ These Plees following, be in discharge
of Accompt.

In Accompt the defendant said, that after
the receipt at *H.* the money was robbed
from hym by certeine felons, & that is a good
plee in discharge of accompt. *H. 9. C. 4.*

In Accompt the defendant shall say, that
after the receipt that the plaintife graunted
to him, that he may receyue the said money
in the name of payment of another summe
which he ought to the defendant. *H. 12. H. 4.*

In a writ of accompt it was supposd that
the defendant hath receyued *CC. li.* the de-
fendant said, as to a *C. li.* you your selfe re-
ceyued the said *C. li.* by a deede that here is,
which testifieth the same receit, & that was
holden no barre, but afoze Auditozs the plee
shalbe allowed. *H. 4. C. 3.*

If Auditozs be assigned, and the parties be
at issue afoze them, the Auditozs shall bring
the Recorde to the Justices of the common
place, and recorde all that, that was made a-
foze them. *H. 12. H. 6.*

If a man accompt afoze the plaintife selfe,
he may not award him to prison, for he may
not be his owne iudge, by which he shalbe a-
warded to accompt of new. *H. 22. C. 3.*

If a man be found in arrerages vpon hys
accompt, and the Auditozs suffer him to go
at large, at another time after they may not
awarde him to prison. *H. 17. H. 6.*

If

If two executors bee, and the one receyue money due to the testator, his coexecutor shal not haue an action of Accompt against him for that money. The same law is of two Marchants which hath goodes in common. C. 11. D. 4. P. 14. E. 3.

But if two haue a warde in common, & the one take all the profits, the other shall haue a writ of Accompt, and recouer the halfe. D. 45. E. 3.

Know ye, that a writ of Accompt lieth not against an infant, for he hath no discretion. D. 9. D. 6.

¶ A writ de Ex parte talis.

REx Vic', Thesaur' & Baron' suis de Scaccario salutem. Ex parte VV. capē & detent' in gaola nostra de N. pro ar' compoti sui, quibus I. de C. ipsum asserit sibi tener' de tempore quo fuit Balliuus suus in G. nobis est ostens. qd' cum Auditores compoti pred' ipsum VV. sup eod' compoto iniuste grauauer' onerand' ipsu de receptis, quæ non recepit, & non allocand' ei expensas aut liberationes rationabiles, & quia pref. w. iniuriari nolumus in hac parte, vobis mandamus quatenus manucepe' sufficient' prefar' VV. capiat in forma predicta, & ipsum a prisoa predicta deliberari fac', put de iure & secundum formam statuti fuit faciend', Mand' tamen custodi prisoa predictæ quod ad certos diem & locum quos ei scire fac', venire faciat predictum w. cum rotulis & tal', per quos compotum suum predicto A. reddidit ad faciend' inde & recipiend' in premissis, quod de iure & secundum formam statuti predicti iusticia sua debet. Et quod predictus VV.

Natura

VV. á gaola prædicta, interim deliberari facias.
Teste &c.

¶ A writ of Dette.

REX Vic' salutem. Præcipe A. qd' reddat B. x. libras quas ei debet & iniuste detinet vt dic'. Et nisi fecerit te secur' de &c. tunc sum' &c. prædictum A. quodd sit &c. ostens. quare non fecerit, & habeas ibi sum', & hoc breue. Teste &c.

This writ lyeth in case where any summe of money is due to a man by reason of any loane, or of any other contract to be paid at a certaine day, or if any be bound to any other to pay a certaine summe of money, at a certaine day, at which day he payeth not, nor will not pay, then he to whom the det is due shall haue the said writ. And the proces in this writ is Summons, Attachment, and distres, and for default of distres in. Capias and an Exigent, proclaimed in v. Counties.

And know ye, that if a writ of Det, trespass or accompt, be brought against an Archbishop, Earle, or Baron, that are Lordes of the Parlyament, no proces of vtlawrie lyeth against them, but all times distres. And the cause is for that, that it is supposed that they haue sufficient whereof they may be distrayned. And know ye, that a wyttte of Dette may be pleaded in Countie, if the det amount not to xl. s. As it appeareth by the statut of Gloz cap. 8. which beginneth. Purview est ensement, que nul Vic' &c. And if the det be of xl. s. or more, then it shalbe pleaded in the common banke afoze the Iustices by writ.

Writ. And know ye, that if a contract or covenant bee made to executors of a det by reason of goods sold, which were to the testator to pay at a certaine day, which day is past, and he bringeth a writ of Det, the writ shal say, Quos ei iniuste detinet vt dic, & non debet, and the cause is, for that, that the debet supposeth property to the executors, and the executors may not haue propertie of thinges which were.

Know ye, that sometymes a man shalbee charged of a contract made by his wife, baylife, seruant, or other such persons. As if my Bailife buy sheepe, or other such thing to my vse, I shal aunswere for that det, & y plain- tife shal not shew in his declaration that the bailife hath warrant to buy for me, but for that, that they come to my vse I shalbe charged. C. 3. R. 2. But after Newton, if my seruant or wife buy certaine things, though they come to my vse afterward, I shall not be charged, but if he buy to my vse, & ioine the buying to my vse at y time of the contract made, then I shalbe charged if it come to my vse. Quare of this diuersitie. H. 20. H. 6.

But if a wyfe buy in open Market, the husbände shall not be charged for that, if it come not to the vse of the husband, for it may be that it shalbe charge to the husband, & the husbände shall not be charged of a contract made by the wife in such maner: But if I commaunde my wife to buy thinges necessarie &c. I shalbe bound by that commaundement, but if my wife buy thinges to keepe my

Natura

my houlholde, as bread, & I haue no know= ledge of that, though it be spent in my house. I shall not bee charged for them. By Fineux chiefe Iustice. C. 14. H. 7.

In Det, the plaintife declareth vpon a con= tract, that is to say, if the plaintife take the the daughter of the defendand to his wyfe, that the defendand shall geue to him xx.li. and the plaintife said that hee tooke to wyfe the daughter of the defendand &c. ¶ Finch. he demaundeth his dett because of a contract which toucheth matrimonie, iudgement if the Court will hold plee, and not allowed &c. H. 14. C. 3.

Det agaynst two by one Praecipe vpon an obligation, by which these two were bound ioynly, and euery one seuerally in the whole and the one come by the Capias, and the other made default, & the plaintife declared against him that came. And Finch. Iustice said, that the plaintife vpon thys obligation, myght haue demaunded this det against them ioint= ly or seuerally at his election, & by the maner that hee hath now taken his writ, the one shall not aunswere without the other, for which cause he that commeth shal haue Idem dies by mainprise. H. 48. C. 3.

In a writ of Dette, the plaintife declared that the defendand bought of hym certayne beastes & other thinges to the value &c. And the defendand said, that the plaintife had nought in the thinges sold, but as executor, to one J. the which J. made the plaintif and one W. as executors, the which W. is not named

named in this writ, iudgement of the writ,
and for that, that the plaintife hath declared
of a contract made betwixt them, so that the
defendant is become dettor to the plaintife
the writ was awarded good. *D. 38. C. 3.*

Know ye, that it is said in a writ of waste
ec. that if a woman being bound in an obli-
gation take a husband, the husband shalbe
charged of the det during the life of his wife,
and after her death he shalbe discharged, ex-
cept the iudgement be geuen against him in
the life of his wife. *M. 49. C. 4.*

Note ye, that it is said, if a man be bound
to a woman sole, and the wife taketh a hus-
band, and the day comprised within the ob-
ligation passeth during the mariage, if the
husband dye without releasing, or acquiting
the obligor, the wife shall haue an action of
Det vpon that obligation after the death of
the husband. Quare if the executors obtaine
the obligation, if they shall haue the said ob-
ligation. *C. 12. R. 2.*

¶ A writ de Catallis reddendis.

REX Vicec' salutem. Præcipe A. &c. quod reddat
B. catalla ad valenc' x. li. quæ ei iniuste detinet
vt dic', & nisi fecerit, & predictus B. fecerit te secur'
de clam' suo prof. tunc sum' &c.

This writ lyeth, where any goodes are de-
liuered to any man to keepe vnto a certain
day, at which day he commeth and demaun-
deth his goodes, and the other wythholdeth
them, then he shall haue this writ. And the
proces is as in a writ of Accompt. And that
is

Natura

is geuen by the new statutes of E. 3. An.
 25. De prouisor' victualium cap. 17. that is to
 say, Summons, Attachment, & distress, pro-
 ces of vtilawrie, and these proces is geuen too
 in Detinue of goods, as in a writ of accompt,
 vt patet supra. And it is to know, y^e in a writ
 of Detinue there shal not be said, que ei debet,
 Ne in a writ of Dette. If executors aske of
 executors goodes or detts, the writ shalbee al
 times que iniuste detinet. And afoze the Jus-
 tices of the banke, Quos ei debet & iniuste de-
 tinet, except it bee of goodes, then the writ
 shalbee, Que iniuste ei detinet, tantum. And if
 the det be demaunded afoze the Justices in
 Eire, the writ shalbe, quos ei debet, tantum.
 And if it bee of goodes, que iniuste detinet, tan-
 tum. And if the plee be of Det or Detinue,
 amounting to the summe of xl. s. or aboue,
 and is pleaded in Countie or Court baron
 without writ, the partie shall not haue a
 writ of false Judgement, ne a writ of Exe-
 cutione iudicij, except to the courts of Cities,
 or in other places that hath iurisdiction by
 custome. And also if the plee of det be moned
 in countie, that amounteth to the summe of
 xl. s. or more, the partie defendant may haue
 a Supersedeas directed to the Shirife, that
 hee cease in the plee. And note ye, that a man
 may haue a writ of Pone, & Recordare in these
 writtes, as in a writ of Accompt. And also
 a man may haue a Supersedeas dyrected to the
 Baylifes of any court, if they holde plee of
 dette, or of goodes, that amounteth to xl. s.
 or aboue. And also in many other cases
 tou=

touching dette oz goodes, as it appeareth by the Register.

And note ye, that certaine pzoce is geuen agaynst executozs, and delayes put out in such pless by the statute of E. 3. An 9. cap. 3.

If a man dye intestate, and the Ordinarie make deputie the most next friend of the dead for to mynister his goodes, these deputyes shall haue an action to demaunde dettes due to the deade person, as executozs shall, and aunswere in the kinges court to other, to whom the saide dead person was bounde in obligation, in lyke maner as executour shall aunswere, and are accomptable to the Ordinaries as executozs are. And 31. E. 3. cap. 11. And also by Westm 2. ca. 16. which beginneth, Cum post mortem &c. the Ordinarie shall aunswere of the dette, in whych the dead was bounden as farre as the goods suffyseth, in lyke manner as executours should if the dead had made his executours. And in case that the Ordinarie make hys executours and dye, afoze that these dettes whych the deade ought bee payed, then these to whom the said dette was due, shall haue a writ of Detinue agaynst the executours of the Ordinarie. Anno 11. E. 3. And in Anno 15. Ed. 3. one Robert Pykeryng brought such a writ against the executours of the Ordinarie.

Note of what habyliments & possessions of goodes, a man shall be charged.

If I make a writing sealed, and that deliuered to J. S. vpon certain conditions to be per=

Natura

performed, and then to deliuer to R. M. and R. M. obtaine the deede, the conditions not performed, I shall haue a writ of Detinue against I. S. M. 9. H. 6.

If my father deliuer to R. a deede of feoffement to deliuer to him and to his heires, & one I obtaine the deede, I shall not haue action against I. if I haue not the land, for if a strainger haue the land, the deede belongeth not to me, for it belongeth to the executors. H. 9. H. 7.

But if I be enfeoffed by deede with a warrant, and after I enfeoffe another in fee, and binde me and myne heire to warrant and die, if any haue the deede by which I am enfeoffed my heire shal haue a writ of Detinue, and so if my father be disseised and dye, I shal haue a writ of Detinue, though that I haue not the land. And of Charters taken out of my possession my executors shall not haue action of Detinue. H. 6. H. 4.

A deede or any other thing deliuered to a Monke, vpon condition to redeliuer, a man shal not haue an action against the Abbot & his Monke, for the Monke may not charge the Abbot against his will, but of a deliuey made to a Monke to deliuer ouer to the Abbot vpon a condition &c. if the Abbot performe that, then he shall haue the thinge for euer, now the Abbot shalbee charged alone, without naming the Monke with him. C. 1. H. 4.

The same law is, of a deliuerie made to the husbände & to the wife, the writ shalbee brought

brought against the husband alone, otherwise the writ shal abate. D. 38. E. 3.

But if a woman come to a thing as executrix, which woman taketh a husbande, now h action may be brought against the husband & the wife iointly. E. 39. E. 3.

And if the wife haue coexecutor with her it is no plee for her and her husband, to say, that her first husband made his executors, we the said husband and wife, and one J. which is in ful life not named &c. for the possession chargeth him. E. 41. E. 3.

Note ye, that a man shall haue a writte of Detinue, against the husband & his wife of a deliuey made to the wife, whē she was sole afore the mariage. D. 43. E. 3.

In Detinue of Charters, the tenant may plede a deliuerie in another County, and the reason is, for that, that he may not wage his law. D. 9. H. 6.

A man may not wage his law in the Detinue of Charters. D. 8. E. 4.

But in Detinue of xx. quarters of wheate he may wage his law. D. 6. E. 4.

And if two writtes be brought by diuers plaintifes against the defendant of any thing he may pray that they may interpleade: as if two bring seuerall writs of Detinue against one of one obligation, & euery one declare a seuerall deliuey made by them, in this case they shal interplede, notwithstanding the declaring of seuerall deliueries, for that, that it is not trauersable, but conueyance to the action. D. 3. & Pa. 7. H. 6.

If two writs be brought against one man of one thing, & the one plaintiff declare of one deliery in the county of S. & the other declare of a deliery in h county of M. In this case they shal not interpleade, for it may not be intended one deliery of one thing, and the defendant shal answere to both the playntifes. A. 14. H. 6.

But if the defendant confesse the action of one of these plaintiffs: the other shal haue his remedy by his action, and they shal not interplede. C. 8. E. 3.

And if the parties be awarded to enterplede, he that hath h writ of elder date ought to declare first. M. 3. H. 6.

Note that when the defendant in a writ of detinue praieth garnishment, he is out of the court maintainant for to pleade any plee, but hath day in court to deliuer that, that the playntife demaundeth, to him, to whom the court awarded. M. 12. H. 4.

If I and another deliuer a thing to keepe and to deliuer to vs, or to the one of vs, in an action brought by one of vs, it was sayde, that the deliuerie was in maner boide, for it is in no certaine to whom it shal be deliuered, but admitte, that the action was brought by the one of vs, Quare, If the garnyshee shal haue the plee in abatement of the writ for to thew the matter, in so much that the defendant hath admitted the writ good. And the opinion was that the writ brought by the one shal abate. H. 12. H. 4.

A writ

¶ A writ de Catallis captis nomine districtionis.

This writ de Catallis nomine districtionis captis reddendis, may not be maintained in no place but within a borough, or wythin a house for rent goinge out of the same house where a man may take the doores, windowes or gates.

¶ A writ de Cartis reddendis.

Rex vic' salutē. Precipe A. q̄ &c. reddat B. quandam cistam cum cartis, scriptis, et alijs munimentis ac diuersis cartis, et bonis in eadē cista contentis sub secur' ipsius B. clausam quam &c.

Rex vic' salutem. Precipimus tibi quod A. iusticies quod iuste &c. redd' B. quandam cartam vel duas cartas, vel tres, vel quoddam scriptum oblig. vel quoddam script' conuentionale, quam (vel quas) ei iniuste detinet, vt dic', sicut rationabiliter monstrare poterit, q̄ ei reddere debeat. Ne amplius inde clam aud' pro defectu iusticiæ, Teste &c.

This writ lyeth in case where any writing or Charters of feoffment are deliuered to any man to keepe, and he, to whom the writings were deliuered, wil not them redeliuer, when the other these demaundeth, shal haue this writ. And know ye, that it is conuenient for him to shew the certaintie of these Charters demaunded, or otherwise this writ shal not be maintained. And the proces is somons, attachment, & distress untill the party come. And no proces of vtlawry lieth in this writ, for that, that it toucheth freeholde. And in place that toucheth freeholde,

¶.

no

Natura

no proces of btlaswye is geuen, but by the newe statutes of Edward the thirde Cap. 23. Proces of btlaswye is geuen in a writ of Dette, Detinue of goods, as in a writ of accompt.

¶ A writ of Audita querela.

REX Iustic' suis de banco salutem. Ex graui quere-
la I. accepimus quod cum idem I. nuper coram I
de VV. tunc Maiore vill' VV. & V. de S. tunc clero-
co &c. recognouisset se debet' B. C. li. ad certos ter-
minos in dicta recognitione content' soluend', ac idē
A. postmodum per quandam indenturam inter ip-
sos A. et I. concessit, quod si prædictus I. solueret præ-
dicto A. singulis annis ad iij. anni terminos, per æ-
quales portiones quendam redd' xl. s. exeunt de ter-
ris & tenementis prædicti I. aut R. fratris eiusdem I.
in villa de N. & in suburbio de N. ad totam vitam
ipsius A. quod tunc prædicta recognitio C. li. penit'
casseret, & pro nullo haberetur, prout per alteram
partem indenturæ prædictæ per dictum A. sigillat',
quam idem A. penes se habet (vt asserit) plenius po-
terit apparere. Et licet prædictus I. dictum reddit' xl.
s. prefat' A. singulis annis ad terminos prædict' æquis
portionibus a tempoꝝ recognitionis prædictæ con-
fect' vsque ad festum Paschæ anno tali, bñ & fidelit'
soluerit, & eundem redditum eidem A. semper hac-
tenus a festo prædict' vsque ad eosd' terminos solue-
re paratus fuerit, & adhuc existat, prout vijs & mo-
dis, quibus conuenit, paratus est edocere idem A. ex-
ecutionem dictarum C. li. de terris & tenementis
ipsius I. pretextu recogn' prædict' persequitur minus
iustē, in ipsius I. non modicum grauamen, & con-
tra

tra vim & effectum indenturæ prædictæ. Et quia eundem I. iniuriari nolumus in hac parte, vobis mādāmus quòd visa altera parte indenturæ prædictæ, & vocatis coram vobis partibus prædictis, auditisque hinc inde earum rationibus, vltèrius in hac parte fieri faciatis, quod de iure & secundum consuetudinem regni nostri Angliæ fuerit faciendum, Teste &c.

This writ lieth in case, where a mā is holden to another in a certaine summe of money, by statute marchant, to pay at a certaine day: or otherwise, that he shall forsayt the penaltie of the statute Marchant, within which day, the creansor releaseth to the dettor the same summe, or otherwise by covenant of Indenture betwixt them made, that is to say, that the dettor shall pay to the creansor a lesse summe of money euery yere by little parcels vntil the same summe bee fully contented & payd, and if he do, then the other shal not sue the statute, then notwithstanding the release or indentures, the creansor sueth to the Maior and bailifs for execution of the statute, that is to say, y^e the dettor be taken, & put in prison vntil the debt be paide: thē he to whom the release or indenture was made, or his next frend, shal come to y^e Chauncelloz, & shewe the release to him, then this writ shal be graunted & directed to one of the Iustices of the common banke, and after that he shall haue somons out of the common banke to the shirif in what county so euer that the creansor is in, to cause him to come at a certayne day, at which day if he come not then he shal

be distrained, and if he come not to the distress returned, the other shall be restored to his lande.

One was taken by a Capias upon a certificate of a statute marchant, & shewed forth acquittance of the playntife, & prayed that he might be demaunded, and so he was, and appeared not, wherefore the defendant prayed that it be recorded, and to him it was denied for that, that he hath no day in court, wherefore he prayed a venire facias, or a scire facias, against the plaintife to answer to the deede & to him it was denied, & it was awarded y^e he shal sue an Audita querela, or els he shalbe without remedy. D. 13. C. 3.

The writ of Audita querela reherseth howe the recognisor hath released al actions by his deede, & also that he hath released by indenture upon certaine conditions y^e which was fulfilled, & the writ was challenged for that y^e it reherseth these two titles, where one extinguisheth the whole, wherefore the court awarded that the playntife shal holde him to the one and so he helde him to the release M. 44. C. 3.

Note that it behoueth all tymes that the Audita querela make mentyon of the release, acquittance or defendance, for otherwise the playntife shall not haue a Superledeas. M. 28. C. 3.

Know ye, that if one Audita querela be challenged, for that, that it doth not accorde to the statute, & the recognisor putteth afoze another writ of Audita querela, & praieyth that the

the defendant may aunswere to his deede, in this case if the defendant wil not aunswere, nowe when he hath day in court to aunswere to this ij. writ, then a venire fac. vpon the ij. writt shalbe awarded, & a Supersedias to the shirif, & þis is a disaduantage to the defēdāt that the first writ is abated. C. 25. E. 3.

¶ A writ of Si recognoscat.

Rex vic' salutem. Prec' tibi quod si A. recognoscat se debere R. xl. s. sine vltiore dilatione, tunc ipsum distringas ad predict' debitum eidem R. sine dilatione redd'. Teste &c.

This writ lyeth, where a man osweth to another a certaine det, & the dettor knowe- ledgeth afore the shirife in his countye, that he is dettor to such one, then he to whom he is dettor after the recognisaunce made, shall haue the said writ. And by this writ he shal be distrained vntill he hath made gree to the party for the debt. And note that this writ lyeth not, but of money numbzed.

¶ A writ de Executione facienda.

Rex vic' salutem, Monstrauit nobis B. quod cum ipse nuper implacitasset in com' tuo per breue nostrum A. de debito C. s. & idem A. in pleno com' illo recognouit se deber' prefato B. eandem pecuniā ad cert' terminum reddend', tunc termino illo elapso, & eandem pecuniam eidem B. nondum soluit, illam ad querimoniam suā scdm recognitionem præd' hucusque habere non fecisti, in ipsius B. dampnum non modicum et grauamen. Et quod idem A. prout iustum fuerit subuenire volumus in hac parte, tibi præc'

I. iij. quod

Natura

quod si ita est, pecuniam illam de bonis & catallis ipsius A. in balliua tua leuā & illam eid' B. habere fac' sine dilac', ne clam ad nos ind' perueniat iteratus, Teste &c.

This writ lyeth where a man impleadeth another in county before the shirife, and he that is the dettor maketh there a recognisance before the shirife to pay to the plaintife the same summe at a certayne day, the which day is past and the summe not payd, nor the recognisee wil not pay the said summe to the plaintife, then the playntife shall haue the said writ that is called de Executione facienda de recogni facta in com directed to the shirife commaunding him that he make execution of the same knowledge.

¶ A writ de Secta molendini.

Rex vic' saluē. Prec' A. quod iustē & sine dilatione fac' sectam ad molēdinum R. de C. quā ad illud facere debet & solet vt dicit. Et nisi predictus B. fecerit &c. tunc sum' &c. ostens. quare non fecerit. Et habeas &c. Teste &c.

This writ de secta molendini (being in the debet & solet) is a writ of right, & it lyeth betwixt straunge persons for such suit withdrawen. And if the lord aske suite of his tenant, he may distraine, and aduow the distress to bee reasonable. And that was vsed in the time of E. sonne of king H. & such writ may be made in the county and in the banke, as it appeareth by the Register.

¶ A writ

¶ A writ de quod permittat.

Rex vic' salutem. Precipe A. quod iusté &c. et si-
ne dilatione permittat B. habere com' pasturæ in
N. de qua C. pater prædicti B. cuius heres ipse est,
fuit seiscitus, vt de feodo tanquam pertineñ ad te-
nemen't suum in eadem villa die quo obiit, vt dicit.
Et nisi &c.

This writ lieth where a man is disseysed
of common of pasture, & the disseisor dothe
alien and dieth, and his heire entreth or the
disseisor dieth, then the heire of the disseisor, or
the disseisor self, shal haue the said writ. And
note ye: that a quod permittat was vsed: habe-
re rationabile estouarium in bosco, vel in turbaria
& similibus. But in place of this writ is ge-
uen Assise of nouel disseisin, as it is said in the
statute of Westm 2. Cap. 25. which begyn-
neth: Quia non est aliquod breue &c. ¶ or by the
statute is ordained: that if any be disseysed
of his turbarie, fishing, or of any other such
like that belongeth to his freeholde for terme
of his life at the least, he shall haue Assise of
nouel disseisin. And also by the statute of
West. 2. cap. 24. which beginneth. In quibus
casibus &c. that if any person of holy church
be disseised of his common of pasture (lyuing
the disseisor) he shall haue assise of Nouel
disseisin of common of pasture. And in the
same maner will, that the successor shal haue
a writ of Quod permittat against the disseisor
or his heire. But in case where they are ma-
ny comouers, which hath comunon of pasture
together by dedde or couenant. And that the
lord leaue vpon the comon a mill or a back-
house

Natura

house. The commoners shal not haue assise of
of nouel disseisin, but shal bee helped by the
cōmon law vpon their couenāt oz especialty.
And that is geuen by the statute of West. 2.
Cap. 46. which beginneth. Cum in statuto &c.
in the ende. And note ye that when this writ
is in þe debet without the solet, & a mā ought
to declare of the seisin of his auncestoz, and
shal holde his suite derained good, then ly-
eth battaile oz great Assise. And when the
writ is in the debet and the solet, and a man
shall declare of his owne seysin, and not to
say, to holde his suit derained good, and this
writ shalbe tried by the inquest. And this
writ shalbe pleaded as a writ of trespass by
attachment and distresse and not by the grād
Cape oz petit Cape. And it is to know that
if a free tenant be put out of his common of
pasture by the lord, oz if the lord hath appo-
ued contrary to the statute of Merton Cap.
4. and against the statute of Westm. 2. Cap.
46. so that the tenant hath no sufficient pas-
ture, he shal haue Assise of Nouel disseisin of
common of pasture. And if the pasture bee
surcharged by one free tenant, they shal haue
a writ of admeasurement. But if the tenant
surcharge the pasture the lord shal not haue
a writ of Admeasurement agaynst the te-
nant, nor the tenant agaynst the lord, but
the lord shal haue Assise of Nouel disseisin
de libero tenemēto, quod dubitatur. And know
ye: that a writ of Quod permittat may be ple-
ded in the Countye befoze the shirife and it
may be in the debet and solet, oz in the debet
with=

Debet

Debet et solet

Debet et solet

without the solet, according as the demaundant claimeth. And if a man be disseised of his common of pasture, and the disseisor dyeth and his heire entreth, the disseisee shal haue a writ of Quod permittat, and shall make mention of the disseisin. And if after the death of the disseisor or his heires, a straunger purchasour entreth, he shal haue a Quod permittat in the debet & solet, which shal try the right. And if he demaund common of pasture of the seisin of his auncestor the day of his death, he shall haue a writ of Quod permittat that shal make mention of the seisin of his auncestor, the which is in nature of Mortd. But if a straunger enter after the death of the disseisor, he shall haue against the straunger no other writ but the Quod permittat in p right. And know ye: that a Quod permittat lyeth of common turbary, fishing, and of reasonable estouers against the disseisors of a disseisin by him or his auncestors made to the playntife or his auncestours, and in no other degrees. Note yee: that the Quod permittat that is of the nature of the Mortdauncester may not be pleded in the county. But p Quod permittat ad certu numerum aueriorum may wel be pleded in county, in p comon bank, or in Eire.

In a Qd pmittat in p debet & solet, of a way of his owne seisin, it is convenient for p playntife to claime p way in his declaration by prescription or by deed: for that, p he claimeth to take such profit in p seuerall of another persō C. 30. B. 6. Note ye: p if a mā & his auncestors were wont to grinde at my mill wout multure,

ture, and the milner will not suffer him to grinde without multure, wherby the milner taketh multure. In this case a man shall not haue a writ of Quod permittat, but a writte of Trespas. *M. 41. E. 3.*

And note ye: y there is iiij. maners of cōmon (that is to say) Common appendant, cōmon appurtenant, Cōmon in gros, & common per cause de visnage.

Common appendant: is there, where a man is seised of a manor to which he hath comū in other seueral appendant to the same manor. And this cōmon may not bee occupied, but with his proper beastes, & such as doth compester his lande. *H. 4. H. 6. An 11. H. 6.*

And if a man claime common appendant, he ought to claime it by reason of a mesuage, otherwise it is not good. *An 21. H. 6.*

And note that a man may haue common of fishing belonging to his house aswel as common of pasture. *M. 4. E. 3.*

And know ye, that Commō appendāt may not be seuered from the landes to which the common is belonging. And if the tenements, to which a common is belonging come in the possessiō of him y hath the land, out of which the common is purchased then the common is extinguished in his person. And if the tenements afterwarde be seuered by alienation, as they were afore, then the common is appendant as it was before, after Scot. *M. 4. E. 3. M. 5. H. 7.*

Common appurtenant is when a mā prescribeth to haue comon appēdance to his lād with

With al maner of beastes, & this cōmon may be made in gros. C. 37. H. 6.

Common in gros, is where a man prescribeth, that he and his auncestors hath had to common in the land beastes without number, & he may occupy his commō with what maner beastes that he wil, & may take beastes of a straunger to giest &c. H. 5. H. 7.

Common per cause de visnage, is where the towne of Dale, and the towne of Sale are adioyning, and the Lorde of Dale and his tenants hath vsed to common in the wast ground of Sale, because of his neighborhead Añ 22. H. 6.

And note ye that to land newly approued, a man shal not haue common, but to auncient land hide & gaine. H. 10. C. 3.

If a man graunt to me to common wth my beastes wheresoeuer his beastes go, & after he occupieth & manureth C. acres of lād wth his beastes, & after it happeneth so, p^r he hath no other beastes, yet I shal haue my common in the sayde C. acres of lande. But if a man graunt to mee to common wheresoeuer his beastes goeth (it is sayde by Martyne) that I shal not haue common, but when he comoneth. A. 40. H. 6.

Note ye: that it was said by Fairefax that if one hath a way belonging to his mannoz, or to his house by prescriptiō, this way may not be made in grosse, for that that none may take profit of that way, except he that hath the house, to which the way is belonginge. But a common appurtenant may be made in gros,

gros, & aduowson appendant may be made in gros: for that the people may haue profit of them, notwithstanding that they haue not the lande. But of common of Estouers to be vsed in a house, may not be seuered and be made in gros, nor cōmon appendant, which is by reason of the tenure &c.

A writ de Quo iure.

REx vic' salutē, Si A. fecerit te secur' &c. tunc sum' &c. B. q' sit corā &c. ostens. quo iur' exigit cōmuniam pasturæ in terra ipsius A. in C. sicut idem B. nullā habet cōmuniā in t̄ra ipsius A. nec idem B. seruicia facit, quare cōmuniā in terra A. habere debet, vt dicit. Et habeas ibi, sum' & hoc breue, Teste &c.

This writ lyeth, where a man hath cōmon of pasture in another mans seueral (after the time of memory vnto this present day) then he to whom the seueral belongeth, shall haue the said writ, by which he shall be charged to answer, by what title he claimeth to haue common of pasture in the seueral of the plaintife. And note ye: that the lord may not put out the tenant of the cōmon: for if he put him out, he may haue assise against the lord, for that that the tenant was seised of the cōmon after the limitation of assise. But it is conuenient that the lord haue this writ, and this writ is geuen to trie the right. And the proces is in this writ, Somons, attachmēt, & distresse, vntil the party come, & when the party cometh & pleadeth in the right to the action, and after make default, then shall goe a graūd distresse in place of a petit cape. And this

this writ shal be determined by battail, or by graūd assise aswel as any other writ of right

And know ye, ꝑ this writ lieth for tenant of ꝑ ground, but not for him ꝑ claimeth common by Herle. An. 2. E. 3.

A Quo iure brought by two, thone was nō= suit, and the other was receiued to sue sole, and the defendāt iustified by prescription &c. And therefore he went quite, C. 11. H. 3.

A Quo iure may be brought against seuerall tenants. Or if they and their tenants enter= common because of bycynage, or of tyme whereof memoꝛye doth not runne though ꝑ the one gain al his land or inclose, yet he shal haue his common with the other, and the o= ther shal haue a writ against him for to haue his common.

¶ A writ de admesuratione pasture.

REx vic' salutem. Questus est nobis A. quod B. in= iuste superoneravit cōmunem pasturam suam in N. Ita quod in ea plura habet animalia & pecora quam habere debet, & ad ipsum pertinet habend'. Et ideo tibi præcipimus, quod iuste & sine dilatio= ne admēsurari facias pasturam illam. Ita quod præ= dictus B. non habeat in ea plura animalia & pecora quam habere debet, & ad ipsum pertinet habend' secundum liberum tenement' suum quod habet in eadem villa. Et quod prædictus A. habeat in pastura illa tot animalia et pecora quot habere debet et ad ip= sum ptinet habend', ne amplius clamorem aud' pro defectu recti, Teste &c.

This writte lyeth where there are manye free tenautes which hath common of pasture

pasture belonging to their freeholde, and one of them surcharge the cōmon, otherwise thē he ought, then he that is greued by this surcharge shall haue this wꝛit. And know ye: that this wꝛit lieth for one of the cōmoners or for al but they shal not haue it against the lord. And if one of them bring a wꝛitte of Mesurement al these commoners shal be admesured, aswell these that bringeth not the wꝛit, as he that bringeth the wꝛit. And this proces is in this wꝛit, as is ordained in the statute of Westm. 2. cap. 7. which beginneth Custodi de ceter &c. that is to say, Somons, Attachment, & distress peremptory with proclamation made in two counties. And if the party come at the proclamation then the plee shall passe betwixt them. And if he come not at the proclamation, thē the mesurement shal be made by his default.

Note ye: that in this wꝛit, it is no plee for the defendant to say, that hanging this wꝛit the demandant put him out of his common, & of that he hath alise hanging for that, that he is seised of the tenementes, for the which he surcharged the pasture. An 8. E. 2.

If I haue cōmon in a maner because of vicuage, & the lord surcharge that common, I shal haue a wꝛit of mesurement against him: for þ, that I am not his tenant. En temps E. 3.

And know ye after Hussey, if there bee but two neighbours in a towne, which entercōmoneth in others lande, a wꝛit of Mesurement lieth not betwixt them, for the one may not

not say, that the other hath surcharged his common: for his common is the freehold of the other, and his freehold may not be surcharged. H. 19. C. 3.

This writ lyeth not against him which hath common appendant, nor against hym y^e hath common by especialty to beasts without number: But against him which hath common appurtenant, & common by especialty to a certayne number of beasts &c. A. 22. C. 3. Lib. ass. placito 45.

In a writ of Mesurement of pasture, hee declared that where the defendant hath common in a certayne place because of his tenure, and there hath the defendant put more beastes then hee ought of right, and shewed the number and the surplussage of the beastes, the defendant said, that there is another that hath common in the same place, which is in full life not named in the writ. And by some men it was sayd, that a man shall not haue an Action against one, against whom he hath no cause of action. But by this action al shall be admesured, and it is no prejudice to them, for that, that they haue all that, that right will. H. 7. H. 6.

A VVrit of secunda super-
oneratione pasturæ.

REx vicecomiti salutem. Monstrauit nobis A qd̄
Cum ipse breue tibi nostrum nuper detulisset de
communi pastura sua in N. admensurand̄, quam
B. iniuste superonerauit, et tu pasturam illam per
præceptum nostrum, prout mos est in regno nostro,

K. j.

ad-

Natura

admensuraueris, idem B. pasturam illam post ad-
 mensurationem prædictam iterum iniuste superonerauit,
 in ipsius A. dampnum non modicum et grauamen, et
 contra formam statuti in huiusmodi casu pro-
 uisi, et quia eidem A. iuxta formam eiusdem statuti
 subuenire volumus, ut tenemur, Tibi præcipimus,
 quod in propria persona tua ad pasturam illam
 accedas, et per sacramentum proborum et legalium
 hominum de balliua tua, per quos rei veritas melius
 scire poterit de secunda eiusdem pasturæ superonera-
 tione, diligenter inquiras: et si super inquisitionem illam
 pasturam prædictam per præfatum B. post primam
 admensurationem iterum iniuste superonerat in-
 ueneris, tunc de aurijs illis in pastura prædicta
 ultra debitum numerum post primam admensura-
 tionem positus, vel de precijs eorundem nobis ad
 Scaccarium nostrum respondeas, & superonera-
 tionem amoueas. Teste &c.

This writ lieth, where Mesurement hath
 ben made, and he that first surcharged the
 comon, another time surchargeth it, hee that
 is so greuen shall haue the said writ. And
 note ye: that this writ is sometime original,
 and sometime iudicial. And in the case afore
 said it is original, & it is a Justices not re-
 turneable, but that the Shirife shall go in pro-
 per person to the pasture, and he shall make
 inquire by lawfull men of his baillywick of
 the superoneration, and if it be found, the Shi-
 rife shall answer to the Barons of the Es-
 chequer for beasts, which were in the pasture
 ouer and aboue the due number. And when
 it is iudicial, then it shall go out of the com-
 mon banke to the Shirife commaunding him
 that

that he go to the place where the measurement was made, and inquire in the presence of the parties, of the second surcharge: and if it be found, the inquisition shalbe sent to the Justices of the comon bank vnder his seale, and the scales of the Jurozs, and after the inquisition returned the Justices shal iudge the parties their damages.

And know ye, that this writ lyeth not but where a mesurement hath ben made betwixt the foresaid tenants, for if any purchase the state of one which was partie to the mesurement, he shall not haue this writ of seconde surcharge, for he is not helped by the statute of Westm 2. cap. 8.

And know ye, that a writ of Mesurement may be remoued out of the Countie into the common bank by a Pone, aswell at the suit of the plaintife, as at the suit of the defendand: But it shalbe al times with cause. And then the writ of the second surcharge is iudicial, as is aforesaid.

¶ A writ de Rationabilibus diuisis.

R Ex Vic' salutem, Præcipimus tibi quod iuste &c. fac'esse rationabiles diuisas inter terram A. in C. et terram S. de R. in D. sicut esse debent & soient: vnde idem A. queritur: quod prædictus S. plus inde trahit ad feodum suum quā ad ipsum pertinet habend'. Ne amplius inde &c. pro defectu iusticiæ. Teste &c.

This writ lieth in case where there is two Lordes in diuers towne, & their seignories toyneth together. If any parcel of land

It. ij.

of

Natura

of the one seigniozie hath bene incroched by little parcels after the time of memozie, vnto this present time, then the Lord of whose seigniozie the parcel of land was incroched, shall haue the said writ against the lord that hath incroched. And know ye, that this writ is a Iusticies and may be remoued by the Pone out of the county into the common bāk. And this writ hath bene made betwixt dyuers townes and diuers persons, & not other wise. And the proces is, Somons, graund Cape and petite Cape.

A writ of Perambulatione facienda.

REX vice' salutem. Præcipimus tibi qđ assumptis tecum xij. discretis & legal' militibus de com' tuo et in ppria persona tua accedas ad terrā w. de S. in C. et terrā R. de A. in N. et per cor' sacram fieri fac' pambulationē int' terr' ipsius w. et terr' pđ R. in C. quia prædicti w. & R. posuerunt se coram nobis in perambulationem illam. Et scire facias Iusticiarijs nostris apud westm. tali die, (vel Iusticiar' nostris ad primam assisam) sub sigillo tuo, et sigillis quatuor legal' Militum ex illis, qui perambulationi illi interfuerint, p quas metas et diuisas perambulatio illa facta fuerit. Et habeas ibi nomina Militum, et hoc breue. Teste &c.

This writ lyeth in case aforesaid, where parcel of land of the one Lord hath bene in such maner incroched by long time past, then by assent of both the lords this writ shall be purchased. And in this writ is no proces: but the shirife shall take with him the sayd parties and chiefe men dwellinge in the sayd seigny.

seigniozie, and go to the saide place where the incrochment was made, and there they shall make Perambulation, and order the seigniozies as they were in old time, before the incrochment. And know yee, that these two writs lie not, but where that incrochment hath bene made from yeaere to yeaere by little parcels out of time of minde vnto this present time. But where the incrochment hath bene made but of late time, then lyeth the Assise. And know yee, that the writ of Perambulatione fac' alwaies is made by agreement of the parties betwene dyuers tostones in one Countie. And the parties betwixt whom the Perambulation shall bee made, shall come to the Chauncerie and gra't that Perambulation shall bee made betwixt their lands. And the agrement shall be inrolled, or thereof a Dedimus potestatem may be made. Anno 8. E. 3,

Note ye, that a tenant in tower may haue this writ. But the Perambulation shall bee made betwixt him in the reuerſion, and the defendant in this writ, and not betwixt the tenant in tower & the defendant. Anno 12. H. 3. Itiſi Eborum.

A writ de Annuo redditu.

REx vicecomiti salutem. Præcipe A. qđ iusté &c. reddat B. &c. C. li. quæ ei aretró sunt de annuo redditu xx. li. quas ei debet, vt dic'. Et nisi fec' &c. tunc sum' &c. ostens. quare non fecerit, Et habeas ibi sum' et hoc breue. Teste &c.

Aliter in comitatu.

K. iij.

Rex

Natura

REX vicecomiti salutem. Precipimus tibi, quod iustitias A. quod &c. reddat D. de. C. centum sol., qui ei aretro sunt de annuo redditu x. li. et vnus robæ, quam ei debet, vt dic', et sicut rationabili &c. ne amplius &c. p defectu iusticiæ. Teste &c.

This writte lyeth in case, where a man graunteth to an other by swytinge anie summe of money oz rent, to take euery yere of his cofers, oz of his chamber, oz of his manor. And after such graunt, that summe of money oz rent is behind: then he to whom the rent is graunted, shall haue the said writ, and by this writ recouer the summe of money oz rent that is behind, and his damages. But if the lands oz tenements be charged with a Distres for such rent behind, then he may distraine in the lands oz tenements: and if the distres be from him deforced, then hee shall haue assise. And know ye, that this writ of Annuity is not to be sued by executors: but in place of this writt is geuen a writ of Debt, which shall be made in the Detinet, and not in the deber: and in the same manner shall be of wheat, barley, and other such like. And know ye, y in this writ & in a writ of Det vpon an obligatiõ, & in like cases wher he ought to shew especialty in declaration, in such writs it is conuenient, y the name of the plaintiff oz defendant agree with the specialtie, oz otherwise the writ shal abate, if y partie that challenge. But in a writ of Wast brought by him in the reuerſion, & in a For-medon in the remainder, a man ought not to shew especialty afoze y it be demanded by the partie

partie, though that the name of the plaintiff, or the demandant in the writ be not according to the especialtie, the writ shall not abate, as it appeareth *M. 4. C. 3.* in a writ of waste. And the Proces is Somons, Attachment and Distres infinite.

And note ye, that of all annual rent going out of landes or tenementes, and not of a chamber a man ought to haue this writ.

Note, that if annuity be graunted out of a church in one county, & the grantee is seised of the annuity in an other county, he grantee may chose in which countie he wil bring his writ of annuitie. *M. 4. H. 6. M. 13. C. 3.*

In this writ the declaration was challenged, for that, that the plaintife supposed the seison by the hands of the defendant & hys predecessors, where he was not seised by the hands of the defendant: and not allowed. *M. 22. C. 3.*

The declaration was challenged, for that that it was the yeare of the Incarnation, & not the yeare of the raigne of the king: and not allowed. *H. 16. C. 2.*

If annuitie be granted vpon condition, the plaintife shall not shew that in his declaration, but he shal make his declaration simple, & the defendant shall not haue aduantage of that, by way of plea in abatement of the declaration, but he shall plead that by way of barre. *H. 11. C. 4.*

If a man grant annuity of a goswone, price *xx. s.* the writ shalbe brought of the goswone, price *xx. s.* without speaking of *h. xx. s.* if the
B. iij
graunter

graunter wil, or he may haue a writ of the re-
s. without speaking of the goſuue, & in this
case the writ shal not abate though that it
be not according to the writing. But if the
writ agree with y grant, then the writ shall
abate for the noncertainty: for by the writ y
demaund ought to be certain. H. 3. H. 6.

If I graunt an annuity of xl.s. to one of
the kings chapleins, vntil he be promoted by
me to a competent benefice: In this case if I
profer to him a benefice which is worth tenn
marks, y which he refuse, that is a good ex-
tinguishment of the annuitie: for the bene-
fice shal haue relation to the value of the an-
nuitie, & not to the estate of the parson, to
whom it is profered, though that he be a man
of great estate. Quod nota. H. 3. H. 6.

If annuitie be graunted vpon condition,
that is to say, vntil the grantee be promoted
to a benefice, or to giue his counsel &c. And
the graunter brings a writ of annuity of the
arrearages, & the grauntoz sayeth, that such a
day he profered to him a sufficient benefice,
or that he demaunded his counsel, & y graunter
that refused: in this case the gratoz shall not
answer to the arrearages before the tender,
for that, that by the tender, the annuitie is
determined: and of these arrearages, before the
extinguishment, the graunter is put to his
writ of det. If the graunter haue acquittance
of the arrearages before the extinguishment,
he shal not plede that in a writ of Annuity,
for he shal haue aduantage to plead that in a
writ of det. H. 16. C. 3.

If Annuitie be granted out of certein land it is in election of the grauntee to bring assise or a writ of annuities. H. 18. C. 2.

In a writ of annuities if the defendant shew acquittance of the arrerages, yet the plaintife shal haue iudgement to recouer the annuities, aswell as in a writ of Heane, the defendant pleadeth, not distreined in his default, the plaintife shall recouer the acquittall straight way. H. 30. C. 3.

In a writ of Annuities against one J. and declared that the said J. by a deede that he sheweth graunted to him one annuities of xx. s. by the yeere, going out of the mannor of Dale, the defendant said, that after the action brought, he hath receiued x. markes of the arrerages of the said annuities, and so hath he abated his will. And it was holden that that was no plee to discharge the writting, except that he shewe another writting, as it is vpon an obligation, els it is no discharge. H. 22. C. 3.

If a Parson of a church hath licence of the patron & ordinarie to graunt annuities, this graunt of Annuities with such licence shall charge his successor for ever without any other graunt or confirmation of the patron & ordinarie. And that is as strong in the lawe, as they all had ioyned in graunt, or confirmed the graunt made by the parson alone. Tamen quere. H. 6. H. 4.

If annuities be granted to another for his counsell giuen & to be giuen, the grauntee is not bound to go to the grauntoe, but to giue
his

Natura

his counsel where the graunt is. D. 45. H. 6.
If a man graunt to me an Annuitie of xx. s. by yeere payable at the feaste of saint Michael, & at the Annuntiation of our Ladie, & the deede beareth date the fourth day of February, I shall take the first paiement at the feast of the Annuntiation next after the date of the deede, notwithstanding, that the feast of saint Michael be the first day in the deede.

¶ A writ de Consuetudinibus & seruitijs.

Rex vicem salutem. Precip A. quod iuste &c. faciat B. de C. cons. & recta seruitia sua, quae ei facere debet delibero tenemento suo, quod de eo tenet in N. vt in redditibus, arr & alijs &c. (vñ sic) vt in secta curie & in alijs &c. Et nisi fecerit &c. te secur, tunc sum &c. ostend quare non fecerit. Et habeas &c. Teste &c.

This writ is a writ of right and wil be determined by battaile, or by great Assise. And lieth where I or mine auncestors after the limitation of Assise was not seised of the customes, or of the seruices of our tenaunt. But afore the limitation we were seised of y seruices & of the customes of our foresaid tenant: than for to reconer the saide seruices, I shal haue the said writ. And the proces is commons, graunde Cape, and petit Cape. And it is to know, that this writ may bee pleaded in iij. maners, that is to say, by one affirmative, and two negatives: this affirmative is called a writ of customes and seruices. And this writ supposeth alwaies, that the Lorde is

is actor, and the tenaunt defendant. And the Lord by this writ may demaunde against his tenant that holdeth the ground of him without meane, to demaunde rent or suit to courte or fealtie, and such maner of services, whereof the Lord, or his auncestors were seised by the hande of the tenaunt, or his auncestors as of rent going out of the same grounde, or in his demeane, as of fee and of right, by reason of which rent the corporall service is movable. And for that some people were wont to declare of the right in their declaration of his owne seison as of fee & of righte. But of other services that are not remouable, a man ought not to declare but as of fee, & of righte without demeane. And this writ is al wholy in the right: where homage is graunted, and knowledged by the tenant in plee pleading, in which case lieth nether battaile nor great assise, nor in this writ ought the solet neuer to be written. And know ye, y^e this writ ought to be pleaded by the same delais, as the Quod permittat, but in this writ of right, is demanded tenementes in demeane after customes & services denied. And by the Lord Gilbert de preston lieth not the view, that is to say, if the deforceor hold not y^e . tenementes in y^e same towne, whereof the demaundant claimeth divers services to him as well as in the Quod permittat, and this writ may be pleaded in the Countie before the Shiriffe, or Justices of the common Banke by the Pone, but better it is for the chiefe Lord to pleade before the Justices of the common Banke, then in the Coun-

Natura

Countie, for the disclaimer of the tenant, to whom no paine is given vpon the disclaimer in the countie. But if the disclaimer be afore Iustices of record, then an action is given to the lord to demaund those tenements in demeane, out of which the seruices doth go. And if the lord be wise, he may purchase such maner of seruices, that if they be behind for default or distresse he shall haue remedie, after the forme as is contained in the statute of Westminster 2. Cap. 21. which beginneth, Cum in statuto &c. And with that agreeth the statute of Glouc. Ca. 3. which beginneth, Ensement si home lesse &c. And the one of these writtes of Customes and seruices negatives is open, and beginneth thus, Prohibemus tibi ne iniuste vexes &c. And the other is close, and beginneth thus: Vic' salutem. Prohibemus tibi quod non permittas A. quod distringat B. ad faciendum ei consuetud' et seruic' que de iure facere non debet nec solet &c. And the writ that is open is betwixt the tenant adoz, and the lord defendand, but after that the tenant hath declared for suit and dammages, the lord defendeth the wordes of the court, and in the repleuin say, that he distreined not the tenant for the customes and the seruices, wherof the declaration is to the wzong, and not to the right, and after thewe all the declaration of the writ of Customes and seruices, and profer his suit to be good, and after the tenant, which was adour afore becommeth demaundant and shall defend by battaile, or by graund assise, as they ought to do. And it behoueth of fine force, that the tenant know=

knowledge to hold the tenements which are in demaund of the same lord, by some services, or otherwise a writ of escheat lieth. And if he will, this writ at the first shall be brought in the court of the same lord, that distrained, if he hath court, and there shall the tenant plead as long as the court may do right. And when the court may make no right, the shirife at the suggestion of the plaintife by vertue of such a clause that is contained in the writ, that is to save, Et nisi feceris &c. may make a Tolt out of the lord's court into the countie, and from thence remove the plea afore the Justices of the common banke by a pone if he will after the order of þe writ of right open. The writ negative cloie is of Customes and services not due, & lieth in case, when the lord distraineth a man for customes and services not due, that nothing claimeth to hold of him, and namely, when the tenant that is distrained, knowledgeth no services to be due to the lord by his hand, and that is a writ of Right, and he that is actor shall become defendant, and the contrarie, and such writ will be determined by battaile or graund assise, as in the Quo iure, And there is difference betwixt this & the Ne iniuste vexes, for that that the Ne iniuste vexes wil all times be open, and the writ of Quod permittat close. And the plaintife that bringeth the Ne iniuste vexes, claimeth to hold of the lord that distraineth, and knowledgeth in maner part of his service of him demaunded, and part denyeth. And he that bringeth his writ close

De=

Natura

declareth not to holde of the Lord the tenements and no seruices of him demaunded to be due by him to the Lord. And if the tenant be wise at the beginning, hee shall cause his beastes to be deliuered by repleuin, for if the tenant may auerre that the Lord, nor none of his aunccestors were neuer seised by the hande of the tenant, or of his aunccestors, or of any other tenant of the same tenements of the seruices demaunded after the limitation of the assise, the repleuin shall serue him: but peradventure the Lord was seised by longe continuance of y seruices demaunded, though that it was by wrong by the hand of the tenat, or of his aunccestors, then the repleuin may not help, but than he ought to bring the Ne iniuste vexes, or if hee bee distrained by the chiefe Lord for suit, than in such case he shall bring a writ formed vpon y statute of Marle Cap. 8 which beginneth. *De secr siquidem faciend &c.* Note yee, that a man may haue acquittance of the seruices in thre maners, that is to say, by deede that counteruaileth acquittance, or for that, that the Meane is seised of other such euen seruices by the hand of the tenant, as the Lord Peramount demaunded of the tenant, or for that, that he and his aunccestors of time, whereof &c.

Note ye, that this writ is of diuers natures, some are writtes of right determinable by battaile, or by graund assise, and that may none vse, but he that of cleere right may speake, and some are mixed in the possession, & that in diuers maners, for some is brought of

of the setson of the demaundant, by the hand of the deforçant, and such writ shalbe in the Debet and solet, and some the seison of the auncestour onely, and such writ shalbe in the Debet onely, without the solet, and shal declare for damages for the possession, by which this writ that will be tried in the possession may a man vse, though that he may not trie the right, as tenant in dower or by the curtesie, and if the deforçant will disclaime, than the tenant in dower or by curtesie shall haue aide of him in the reuersion, for that, that he may not be partie to such hie answer, that is to pleade in the right without him in the reuersion to whome the action is giuen by the disclaimour.

A writ de Contra formam
feoffamenti.

REX balliuis R. de B. salutem. Cum de communi consilio regni nostri Angliæ prouisum sit, ne quis occasione tenementorum suorum distring. ad sectam faciend' ad curiam dominorum suorum, nisi per formam feoffamenti ad sectam illam, aut ipsi vel eorum antecessores ten illa tenentes, eā fac' consueuer' ante p'm transf'r domini H. R. proau' in Britan, vobis præcipimus, q' non distring. A. ad faciend' sectam ad cur' prædictam de N. contra formam prouisionis prædictæ, & districtionem, quam ea occasione feceritis, sine dilatione relaxetis. Teste, &c.

This writ lieth where a man infeoffeth another of certeine landes or tenements by Charter of feoffement, to make certeine seruices and suits to his court, and the lord, his heire,

heire or his assignes distraine his tenant to make more seruices than is contained in the said Charter, then this said tenant may haue the said writ directed to the lord, commaunding him that he distreine not the saide tenant to do other seruices than his Charter will, as it is given by statute of Mart Cap. 9. which beginneth: *De secē liquidem faciend' &c.* for none shall be bound to make suite to the court of his lord otherwise than is contained in his Charter. And the proces is attachement and distresse vntil the partie come. And know ye, that this writ ought to be brought there where the plaintife claimeth by discent, and not by purchase. And also if any be distrained against the forme of any statute, he may haue a prohibition, and vpon the prohibition attachement, but he shal not haue attachement afore the prohibition sued. And note ye, that if any heritage of which one sole suit is due discent to manie parceners, then by the foresaid statute, he that hath the auncient part shall make the suit for all, and these other shal make contribution, & if they will not hee shal haue against the a writ, *De contributione facienda*, which writ and many other that toucheth this matter shalbe found in the Register among writs of the statutes. And the proces is as in a writ of *Dedimus postestatem de fine leuando*.

Note yee, that in this writ, the defendant demaunded hearing of the deede of feoffement and the demaund was not allowed.
M. 3. C. 1.

Note

Note ye, that if there be the Lord and the tenant, and the Lord is seised of two courts that is to say, one court in Dale, and of another in Sale, and the tenant holdeth of the Lord of the manor of Dale, and suit to the same, and it is agreed betwixt the Lord and the tenant, that the tenant shal make suit to the court of the manor of Sale, for the suit due to the court of the manor of Dale, the Lord in this case may distrayne his tenant to make the suit to the court of Dale, as hee ought, for the suit abydeth all times due to the court of Dale. And the same law is, if the Lord by agreement take ij. s. of rent by the pere, in allowance of suit, and so is seised by the space of xl. yeres, and at the last the ij. s. are behinde, and the Lord demaundeth his suit, in these cases the tenant may not main-
taine a writ of Contra formam feoffamenti a-
gainst the Lord. M. 3. C. 2.

¶ A writ of Mesne.

REX Vicec' N. salutem, Præcipe A. quodd iuste &c.
Racquietet B. de seruic' quod C. ab eo exigit de
libero tenemento suo, quod de prefat' A. tenet in N.
vnde idem A. qui medius est inter eos, ipsum acqui-
etare debet, vt dic'. Et vnde queritur quod pro de-
fectu eius distringitur, & nisi fecerit &c. Teste &c.

This writ lyeth where there are Lord, Mesne and tenant, & the Lord distraineth the tenant for the seruices, that the Mesne ought to do to the Lord going out of the land, then shall the tenant haue this writ a-
gainst his Mesne. And if the tenaunt haue
L. 1. any

Natura

any writing making mencion of any acquy-
tail, or small concord of his next Meane of
whom he claymeth to holde the ground, or of
his auncestors, or any seisin of any acquitail,
by the hande of the same Meane, or of hys
auncestors, if the meane do demaunde what
he hath to bynd hym to the acquytal: then
must he shew it. And after that the Meane
hath entred into the acquitail, for to acquite
the tenaunt of the seruices requyred by the
chiefe Lord, the same meane may haue ano-
ther writ against his meane betwixt him &
his Lord, and so of euery of them. And thys
writ of Mesne, and writs of Customes and
seruices aforesaid, shalbe pleaded by the same
delayer, as a writ of Trespas. And the pro-
ces in this writ is Summons, Attachment,
and Distres. And day shalbe geuen before
that the great distres shalbe returned, so that
ij. shire courts may be holden, & proclamation
shalbe made in those ij. shire courts, that the
Meane shall come at the day contayned in
the writ for to acquite the tenant, and if he
come not at the said day, then shall he lose
the seruices of his tenant, and shalbe foriud-
ged of his seignorie, and the tenant whych
bringeth this writ shalbe immediate tenant
to the chiefe Lord, and shall do the same ser-
uices & suites, as hys Mesne did to the sayd
chief Lord. And that is geuen by the statut
of Westm 2. ca. 9. which beginneth. Cum ca-
pitales domini &c. Neuerthelesse, the tenant
shall not be prohibited to sue the proces ge-
uen by the comon law, that is to say, Sum-
mons,

mors, Attachment, and Distres, til the partie do come, if it bee for his profit, for if the tenant holdeth of his Meane, by lesse seruices then the Meane holdeth of the chief lord, and the tenant sueth the proces geuen by the statut, & the Meane is foriudged of hys seigniozie: then must the tenant do the same seruices to the chiefe Lord that the Meane did, which were greuous to the tenant, and therefore may the tenant chosse, which of the two processe he wil sue in this case. And by the same statute this proces aforesaid, nor this foriudging is not geuen, where there be many and sundry mesnes betwixt the superiour Lord and the inferiour tenant, but in case where there is onely one meane. And also this foriudging is not geuen of right, but onely for the tenant of fee simple against the Meane of fee simple. Neuertheles at the common law, there was a writ of Mesne for the tenant in taile, and tenaunt for terme of lyfe, and that is proued by the said statute, where it is said, Pro tenente in dote per legem Angliæ, & ad terminum vitæ, vel perfeodum talliatum, nondum est remedium prouisum &c. But that is to be vnderstanded, y that remedie as concerning the foriudger, is not ordayned for such tenauntes, but the tenaunt may haue a writte of Mesne, as yt doth appeare by the same statute.

And note ye, that a writ of Mesne may be pleded in the shire Court before Iustices of the comon place, or Iustices of Eire, nor the distresses shal not cease vpon the tenant,

L.ij.

though

Natura

though the writ were purchased upon the Mesne, because the chief Lord hath alwaies his recourse to his fee, for to distraine for his customes and seruices with arrerages of the same. And note ye, that a man may haue acquittance of seruices in dyuers maners. s. by deede, or because that the Mesne is seised of such seruices by the hande of the tenant, as the chiefe Lord demaundeth of him, or because the Mesne and his auncestors hath acquitted the tenant and his auncestors at all tymes, or because he doth holde of him in Frankmariage, or in dowry, or in frankalmoine. And note ye, that in case the Mesne be ready to acquite the tenant of the seruices due to the chiefe Lord, and the chiefe Lord doth distraine the tenant for the same seruices, then shal the tenant haue a writ dyrected to the Shyrife of the same shire, rehearsing how that the Mesne is ready &c. commaunding him, that he shall not suffer the tenant nor the Mesne to be distrained by the said Lord, nor otherwise to be vexed by reason thereof. And note ye, that if the Mesne do commit a felonie, for the which he is attainted, in this case thinferior tenant shall become immediate tenant to the chiefe Lord of such seruices as he did to the Mesne. And note ye, that this writ may be remoued out of the shire Court into the common place by a Pone.

Note ye, that equalnes, or oueltie of seruices is, where the tenant holdeth an acre of land of the Mesne by bj. d. and the Mesne hol-

holdeth the same acre ouer by bj. 5. that is good oueltie, for that, that the tenant holdeth by that, that the Mesne holdeth & no more, but if the Mesne hold by more seruices then the tenant holdeth of him, that shal it not be said oueltie of seruices. D. 4. H. 6.

And it is not conuenient for the plaintife to shew the certaintie of the tenure betwixt the Mesne and the Lord aboue, for then shal follow, that the tenure betwixt the Mesne and the Lord aboue shalbe tried betwixt the Mesne and the tenant, and that shalbe no reason if the plaintife declare that he holdeth of the Mesne in frankalmoigne, and that he and his auncestors hath acquitted him & hys predecessors tyme out of memorie &c. thys declaration is not double, for the frankalmoigne is no cause of the acquitail, except that he shew the gift. s. how the defendant and his auncestors which gaue in frankalmoigne, which is good cause of acquitail without more, or to prescribe, that he and his auncestors hath vsed to acquite the plaintif, by reason of frankalmoigne, and he haue not prescribed in frankalmoigne, and hath not shewed the beginning of the gift, but hath shewed the prescription general, the which is good cause, and the other is but boide, if the plaintife prescribe, that the defendant ought him to acquite against the Lord paramount, and all other, and it is found for the plaintife, that the defendant ought hym to acquite against the Lord, this prescription of acquitail against al the other is void.

An. 39. B. 6.

If the plaintife declare that he is distrayned by one D. for seruices of the Meane, and that the Meane holdeth of D. where there is two Lordes betwixt the Meane and D. the defendant may plead in abatement of the declaration, that hee holdeth not of D. D. 44. E. 3.

The Lord, Meane, and tenant are, and the Meane bindeth himselfe by fine, to acquyte the tenant against the Lord, and his heires, the Lord taketh a wife, and hath issue and dyeth, the wife is endowed of the Seygnorie, and distrayned the tenant parauaile for the seruices of the Meane, in this case the Meane shall acquite the tenant agaynst the wife tenant in dower, though that he be not heire to the Lord, for that, that the reuerſion of the seruices is to the heire. D. 31. E. 1.

The Lord, Meane, and tenaunt are, the Lord distrayned the tenant parauaile for release after the death of his father, in this case the Meane is not bound to acquyte hym against the Lord, for that, that the auncle were that should discharge him lyeth naturally in his mouth. M. 17. E. 3.

The Lord and tenaunt are, and the tenant maketh a lease for terme of lyfe, yelding certain rent, and the Lord distrayned the lessee for the seruices of the tenaunt, and the lessee bringeth a writ of Meane, the defendaunt shall say, that the plaintife hath nothyng but for terme of lyfe, and he shal not shew of whose lease, iudgement &c. It is conuenient for

for the plaintife to maintaine that hee hath
fee, otherwise the writt shall abate, for that,
that the writt lyeth not for tenant for terme
of lyfe, but a writt of Couenant, and to say
that he holdeth of the lease of the defendant,
the reuerſion to him that will make no iſſue.

¶ 17. E. 3.

The Lord, Meſne being a woman, and the
tenant, the Meane byndeth her ſelfe to ac=
quyte the tenant, and after taketh a husband
and hath iſſue, and the tenāt releaſeth to the
husband, that he nor his heires ſhall not be
bound to acquitail, the husband and the wife
dyeth, the tenant parauaile bringeth a writt
of Meſne agaynſt the iſſue as heire to hys
mother, & he pleadeth this releaſe in barre,
& it was holden that he ſhall not be barred,
for that, that the defendant is bound as heire
to hys mother. P. 38. E. 3.

The Lord, Meſne, and tenaunt are, the
Meane doth graunt by fine the ſeruices of
his tenant to a ſtraunger in fee, to whom the
tenāt parauaile doth not atturue, the grann=
tour doth take a wife, and taketh eſtate to
hym and to his wife, and to the heires of the
bodie of the wife, and for default of ſuch iſ=
ſue, the remaynder to the right heires of the
husband, and they haue iſſue a ſonne, and the
husband dyeth, in this caſe the ſonne ſhalbe
charged of the acquitail, in y writt of Meſne,
if he may not auerre, that the tenant attur=
ned to the graunt, and the wife ſhall not be
charged. W. 40. E. 3.

The Lord, Meſne, and tenant are, the te=
nant

Natura

nant is a woman, & taketh a husband which are distrained for the seruices of the Mesne, in this case the husband, and the wife shall haue a writ of Mesne against the Mesne, & they shal declare that the wife is distrained, aswell as the husbände, supposing that the wife hath propertie of the goodes during the esponsels, and yet the declaration is good.
D.24.E.2.

Note ye, that foriudgement against the husband and the wife, is not boide, but error, for he shall not haue a Cui in vita. M. 9.E.2.

In a writ of Mesne, supposing that hee is distrayned by one R. whereof the defendant is Meane, the defendant said that another time the plaintife brought a writ of Mesne against him, supposing that he is distrayned by one W. in the same land, and that we are meane betwixt them, so suposeth he that W. hath the seigniozie, iudgement of the writ that suposeth R. to haue the seigniozy and not allowed, for if there be two or three Lordes euery one aboue other, if any of them distraine the tenant parauaile, his suit is against his Meane, and he shall haue a writ ouer, and so his plee is no plee to the writ.
D.29.E.3.

The Lord of a Hundred, Mesne, and tenāt are, the tenant doth holde of the Mesne by homage and escuage, the Lord demaundeth suit to his hundred, of the tenant parauaile, in this case the tenant shall not haue a writ of Mesne, for as concerning the suit to the hun-

hundred, the Lord shall aduowse vpon hym that is tenaunt of the lande, for otherwise he may not do, notwithstanding there is meane betwixt them, & for suit that is due, by reason of the reuance, the Meane shall not acquite him. *M. 4. C. 3.*

If the Lord paramount of whom the meane holdeth dyeth, hanging this writ, the writ shall not abate for that, that the writ was well purchased at one time, and it is no reason that it shal abate by the death of the lord that is a straunger, if it shal bee plee to say that the Lord is dead, it shal be to the action, for the tenant shall haue no remedie by a writ of Mesne, of that distress taken in the life of the Lord, but of a foriudger otherwise is, for there the writ shal abate by the death of the Lord paramount, for that, that the tenant may not be attendant to a dead person.

C. 4. H. 6. C. 13. C. 3.

If the tenant do sell the mesnaltie by fyne hanging a writ of Mesne, and the tenant sueth forth his writ & foriudged his meane, notwithstanding this alienation or sale, the tenant shal be attendant to the chiefe Lord, & the graunt of mesnaltie shall not charge the tenant to attorne *H. 34. C. 3.*

If the tenant be distrayned for such seruices that the tenaunt holdeth of the Meane, he shall haue a writ of Mesne maintainant, without any notice made to the Meane, but if hee bee distrayned for other seruices then the tenaunt holdeth of the meane, then hee ought to make knowlege to the meane,
and

Natura

and after such knowledg, he shal haue a writ of Mesne, and not afoze. An. 15. H. 6.

Note ye, that in a writ of Mesne, the quantitie of the seruices shal not make issue, as if the plaintife declare that he holdeth xx. acres of land of the defendand by certain seruices, and sheweth which & how he holdeth ouer by many other seruices, and how the plaintife is distrained, the defendand shal say, that the plaintife holdeth x. acres of the xx. acres by certaine seruices, and shew which & by many other mo seruices, that the plaintif hath not supposed, and that he holdeth these other x. acres by other seruyces then the plaintife hath declared, & demaunded iudgement of the declaration, now the plaintife shal say by protestation, not knowing xx. acres are holden by many other seruices, as hath bene alleaged, but that they are holden by one whole seruice in the maner &c. Quod nota. Da. 2. H. 5. C. 16. E. 3.

Tenant for terme of lyfe, the tenant shall not haue a writ of Mesne against y^e meane, for he is not tenant to him, but to him in the reuersion: but if he be distrayned for homage he shall haue a writ of Mesne, for hee may not do homage. H. 21. E. 3.

But tenaunt for terme of lyfe, or tenaunt where the remainder is ouer in fee, hee shall haue a writ of Mesne against the Mesne. The same law is of tenant in dower. C. 17. E. 3. An. 15. H. 6.

If tenant by the curtesie be of a mesnaltie, the tenant parauaile shall not haue a writ of
of

of Mesne against him in the reuerſion, lea-
uing the tenant by the curteſie. *H. 14. C. 2.*

The defendaut in a writ of Mesne ſayeth,
that where the plaintife hath declared that
he holdeth of me, & I. ouer of C. B. I ſay
that I. holdeth of C. B. as in ryght of his
wyfe, and it is thought that it a good p^lce,
for otherwiſe if the tenant ought to reco-
uer by this writ, the Mesne ſhalbe charged
to two acquytails, the one by eſtoppel, and
the other becauſe of the meſnaltie againſt
C. B. and his wyfe, as in the right of hys
wyfe. *H. 22. C. 4.*

If the Lord diſtrayne the beaſtes of hys
tenaunt where there is a Meane, the meſne
may put hys beaſtes into the pounde in
gage for the beaſtes of the tenaunt, and
ſhall haue a Repleyne, and pleade wyth
the Lord, and ſo euery eſtate ſaued, and if
the Mesne reſuſe to helpe his tenaunt by
this maner, the tenaunt ſhall haue a writ
of Mesne vpon the ſpeciall matter. *An.
6. H. 4.*

In a writ of Mesne, it is no good decla-
ratyon, to ſay, that the defendaut and
hys auncestours hath acquyted the playn-
tife and hys auncestours, and thoſe whoſe
eſtate hee hath, but hee ſhall ſay, that hee
holdeth of hym by Homage, fealtie, and
certayne rent, of whych ſeruyces hee is ſei-
ſed, and ſayeth that hee and hys aunceſ-
tours hath acquyted the playntife and hys
auncestours tyme out of mynde &c. *C. 11.
Edw. 3.*

Natura

¶ A writ de Querela friscę fortie.

I Vria domini Regis apud VV. in Guildhalda eiusdem villę secundum consuetud' villę illius, ac libertatem burgens. villę illius per diuersos Reges Anglię conc', & per dominum Regem nunc confirmat', coram Iohanne S. & A.T. Ball' villę prædictę die Lunę proxm post festum sancti Bar' Apostoli, Añ regni E.4. 9. Ad hanc Curiam venit T. Abbas sancti Petri de Hyde, iuxta VV. in propria persona sua, & queritur versus Thomā L. capellanum Cantuar' beatę Marię virginis, in ecclesia sancti Petri in L. de placito Assise friscę fortie, dicendo quod idem Tho. L. iniuste & sine iudicio, ac vi recenti disseisui eum de libero tenemento suo in VV. post primam transfretac' domini H. filij Regis Iohannis in Vascoñ, & infra querētenam &c. inuenit pleg. de prof. querelam suam I.H. & I.S. Ideo secundum consuetudinem villę prædictę, præceptum est R. F. & R. VV. seruiētibus domini Regis ad clauas in eadem villa & ministris cur' præd', quod reseis. fac' tenement' prædictum de catallis q' in ipso capē fuer', & ipsum tenement' cum catall' esse in pace vsq; ad prox. cur' coram Maiore & Balliuis ciuitatis præd' in Guildhalda prædicta, tali die prox' futur' tenend'. Et interim fac' xij. liberos & legales homines de viciñ præd', infra præcinctum libertatis villę prædict' videre tenē illud & nomina eorum imbreuiari. Et quod sum' eos per bonos summoniē quod tunc sint parati inde facer' recogn'. Et qd' poñ pervadios & saluos plegios prædict' T. vel Balliuum suum si ipse inuentus non fuerit, quod tunc sit hic auditur' illam recogn'. Et quod tunc habeant hic summoniē nomina pleg. &c. Et super hoc idem Abbas posuit loco suo I.H. versus T.S. de prædicto

dicto placito. Ad quem diem præfati Seruientes
retorn hic panellum de nominibus recogn, q̄ huic
rotulo est consutum. Et testatur quod iidem recogni-
sum sunt per Adam Pie et R.S. quorum vterque
manucapitur per Iohannem Done, R.S.T.I. &
T.S.

This writ lyeth in case where a man is
disseised of tenements that are deuifable,
as in the citie of London oz other borough
oz towne that is franchised, then the dissei-
se shall come into the Court of such a towne,
that is infranchised &c. and entre his playnt,
wherein he shall shew how he is disseised,
and vpon that shall twelue men say their
verdict in like maner as in assise of Nouel
disseisin.

And know that the cause why that it is
called fresh force, is for that, that if the dis-
seise cause not his plaint to be entred, nor
recovered within xl. dayes, he shall be put to
his recouerie at the common law, that is to
say, to Assise of Nouel disseisin. Ideo q̄re. And
if þe Maioz & the ministers of the court will
not award execution of þe iudgement of this
fresh force: then the party pursuant oz plain-
tif shal haue this writ following to haue ex-
ecution after the forme of this plaint, & shall
be directed to the bailifs of the same towne.
And the writ of Execution is such.

REx Balliuis I. de C. salutem. Præcipimus vobis
quod executionem iudicii nuper redditi in curia
nostra de S. sine breui nostro inter A. et B. de qua-
dam frisca forcia eidem A. per præfatum B. in R.
facti (vt dicitur) sine dilatione fieri faciatis. Teste

&c.

Natura

&c. Et Sicut alias et cum Pluries if neede be &c.

¶ A writ de Ex graui querela.

REx Maiori et Vic' London salutem. Ex graui querela I. filie E. et VV. sororis eiusdem I. accepimus, quod cum secundum consuetud' in eadem Ciuitate haftenus obtentam et approbatam, liceat vnicuiq; Ciui eiusdem ciuitatis tenē sua in eadem ciuitate in testamento suo in vltima voluntate sua, tanquā catalla sua, legat' cuicunque voluerit: ac S. Ciuis ciuitatis praedictae iij. mesuag. cum pertiñ in eadem ciuitate in testamento suo et vltima voluntate sua, E. habend' sibi & hered' suis de corpore suo exeunt', legasset &c. R. et D. vxor eius, duo mes. et tres shopas inde praefatis I. et VV. filiabus et hered' eiusdem R. detinent minus iustē, in ipsorum I. et VV. dispendium non modicum et grauamen. Et quia eisdem iniuriari nolumus in hac parte, Vobis praecipimus, quod vocatis coram vobis partibus praedictis, auditisq; hinc inde earum rationibus, inspectoq; tenor' testamenti praedicti, eisdem I. et VV. fieri faciat debitum et festinum iustitiae complementum, prout de iure et secundum consuetudinem praedictam fuerit faciend', et haftenus in casu consimili fieri consuevit. Teste &c.

This writ lyeth where a man is seised of certaine lands or tenementes in fee, with in a Citie, Towne, or Borough, which lāds or customes are deuisable, and he by his testament deuise to a man the sayd tenements, and dyeth, if his heire or any other man enter in the said landes or tenementes so deuised, then the deuisee or his heire shal haue the said writ against the heire of the deuisee,

four, or against any other man that abated, not regarding in what manner degree that he is in, after the devise made, if the deuyfour dyeth, the devise not adnulled in the lyfe of the deuyfour.

And know ye, that this writ shal never be pleaded afoze the kinges Justices, but all times afoze the Maioz, and the Bailifes of the Citie or Borough, or afoze the Bailifes where there is no Maioz, or afoze the Baylifes of any towne, or afoze Bailifes of fee, or seigniozie, where there is such blage.

And know ye, that no freehold may be devised, but where such blage is, for every devise of freehold is against the comon law, but the law suffers such devises to be made because of such blage of so long tyme used. And the proces is such, that the tenant shal be summoned to be afoze the Maioz and the Bailifes at a certaine day, to shew wherefoze the other ought not to have execution, and if hee can nothinge say agaynst hym, then the demaundaunt shal have execution.

Note ye what deuyfes are good, and what not, and who shall devise, & of what thyng, and who shall have aduantage of the devise.
M. 22. C. 3.

If land be devised to a man by testament, without shewing what estate he shall have, he hath nothing but for terme of lyfe.

Note ye, that the husbände may deuyse lande in fee, or for terme of lyfe to hys wife.
M. 3. C. 2.

A woman may not deuise lande by her testament to her husband, for because shee may not make testament but by the assent of her husbände, and that is the deede of the husbände to make estate to hym selfe, whych is against the law. Añ 3. E. 3. Itin Noñ.

Land deuisable is geuen to the husband & his wife, and the heire of their two bodyes begotten, and for default of such issue to remaine to the right heires of the husband, the husband deuised the same remainder to hys wife that is tenant in taile, & dyeth without issue betwixt them, this deuise of remainder is good. Añ 27. E. 3. Lib. ass. plac 40.

A woman seised of certaine land deuisable taketh a husband and hath issue, and the wyfe deuise the lande to her husband and dyeth, now he shalbe iudged in, as tenaunt by the curtesie, and not as tenant by force of the deuise, for the freehold beginneth in him afore the deuise. H. 29. E. 3.

A man deuysed landes for terme of life, and deuised further, that his executozs should sel the reuerſion and dyeth, the executozs solde the reuerſion without deede, for because that is but a contract, and the reuerſion passeth by the authoritie of the deuisee, and the testament is the cause that the reuerſion passeth. For if a man make a Priest his executor, and deuised that his executor shall sel the reuerſion, that is good without deede, for otherwise it shall neuer take effect, for a Priest may make no deede that shall bynde him, and a fine he may not leuie, for that, that he hath
nothing

A wife of the assent and will of hir hus-
bande maketh a testament & deuised by the
same halfe þ goods of the husband & maketh
her executors, who proueth þ testament by þ
assent and will of the husband, that is a good
deuise. **M. 5. C. 3. P. 39. C. 3.**

Note yee : if land be deuised to a man and to his heires males of his body, and he hath issue a daughter which hath issue a sonne, the sonne shall enherite, & yet of a gift otherwise it is. **13.7.13.6.**

Note yee : that executors may pay h debts
afoze any deuise perfozmed.

If a man deuise goods & dieth, the deuisee may not take goods without livery of $\frac{1}{2}$ ex-
ecutors. *Wh. 37. H. 6.*

If a man deuise a booke, or any other thing
to one for terme of life, and after his decease
the reuersion to another for euer, if the ex-
cutors

Natura

entors deliuer the goods to the first devisee
& after þe deliuey the devisee dieth, then the
second devisee may seise the goods without
liuey of executors: for possession of the first
is the possession of both, which was denyed
by some men, therefore enquire the law, C.
37. B. 6.

If two iointenantes are, and the one de-
uyle all that, that to him belongeth, to a
straunger and dyeth, this devise is voyde.
Causa patet &c.

¶ A writ de Communi custodia.

REX vic' salut'. præcipe A. qd iuste et sine dilatione
reddat B. custodiam terræ et heredit' D. et E. quæ
ad ipsum B. pertinet, eo quod prædictus D. terram
suam de eo tenuit per seruitium militare, ut dic', et
nisi fecit, et prædictus B. fecerit &c., tunc sum &c.
Teste &c.

This writ lieth where a man holdeth lands
or tenements of another by knights ser-
vice, and the tenant dyed, his heire within
age, a straunger entreth in the landes & ob-
taine the swarde of the body, then the lord of
whom this land is holden, shal haue the said
writ. And the proces is in this writ, So-
mons, Attachment, and two distresses and
day shalbe geuen afore the seconde distresse
returned þe thre shire courts may be holden.
And this proces is geuen by the statute of
Westm 2. cap. 35. which beginneth. De pue-
ris masculis siue &c. And with that agreed
¶ Mart

Mar^t cap. 7. which beginneth. In plito vero de
cōi custodia &c. As to the distresse, but not to
the proclamation. And also wil the said sta-
tute, that if the defendant come not at y^e pro-
clamations made in the thre counties, the
plaintife shal recouer the warde for the time,
sayng another tyme the right of the defen-
daunt when hee will speake. And also if the
warde belonge to the Lorde by reason of a
warde that he hath in possession, & a straun-
ger obtayne the same warde, the Lorde shall
haue the said writ, but the commō proces is,
as afore was bled in the common lawe, and
the lord shall holde the warde by reason of
the warde vntill his full age, and this is the
cause, for that that it is a chatel in him, & he
is thereof seised, & he may not be put out of
possession afore the full age of the heire. And
know ye: that if the gardein make waste in
any parte of the ward, he shal lose the ward,
and ouer that he shal yelde damages to the
infant, & if the wardship losse sufficed not to
the value of the damages afore the age of the
heire he shal make greement of the remenāt.
And that will the statute of Glouc^r Cap. 5.
in the middes which beginneth. Ensement est
puruieu &c.

¶ A writ de Entrusion de garde.

R Ex vicecom^{it} salutem. Si A. fec^{it} te &c. tunc sum^{us}
&c. B. filiū etheredⁱ D. quod sit coram &c. of-
tens. quare cum custodia terr^e etheredⁱ ipsius D. ad
ipsum A. vsque ad legitimam ætatem prædicti
M. ij. he^r

Natura

heer pertinet, ratione dimissionis, quam A. de B. de quo predictus. D. terram suam tenuit per seruitium militare, inde fecit predicto A. et idem B. infra etatem existens, se in terram predictam intrusit, & custodiam illam a prefato A. adhuc detinet, ad graue dampnum ipsius A. vt dicit. Et habeas ibi sum & hoc breue &c. Teste &c.

This writ lyeth where the infant within age entred into his lands and holdeth his Lord out, the Lord shall not haue þ foresaid writ de Cōi custodia, But this writ of Intrusion of warde.

Note yee: þ an Abbot shal haue this writ of Intrusion, of an Intrusion made in þ time of his predecessour, & he shal make mētion in his writ þ the agrement was not made to his predecessour nor to him. C. 11. B. 4.

C A writ for the valure of the marriage.

REX vic' salutem. Si A. fecerit te secur' &c. tunc sum B. filium et hered' C. ostens. quare cum maritagiū predict' B. ad predictum A. pertinet, eo quod predictus C. terram suam de eo tenuit per seruitium militat', & idem A. predict' B. dum infra etatem fuit, competens maritagiū obtulerit, idem B. maritagiū renuens, prefato A. de maritagio suo nondum satisfecit, sed adhuc satisfacere contradicit, ad graue dampnum ipsius A. et contra formam statuti predicti, vt dicit. Et habeas &c. Teste &c.

This writ lieth where the Lord profereth cōuenable mariage to þ Infant without disparagement, and hee refuse, the Lord shall haue

haue this writ, whereby he shall recouer the
single value of the mariage &c.

Awrit of forfeiture of marriage.

REx vic' salutem, Si B. de A. fecerit te secu' de
claim suo &c. tunc sum &c. C. filium et hered'
D. quod sit &c. ostens. quare cum maritagium ipsi-
us C. vna cum custodia ducentarum acra' terre cum
pertin' in R. ad ipsum A. pertineat ratione dimissio-
nis, F. cui G. eum dimisit, de quo predictus D. ter-
ram suam tenuit per seruitium militare, inde fecit
prefato A. & idem A. prefato C. dum infra eta-
tem fuit, competens maritagium absque vlla dispa-
ragatione, iuxta formam statuti de communi con-
silio regni nostri inde prouisi, sepius obtulerit, idem
C. maritagium illud recusans, se sine licentia & vo-
luntate ipsius A. marita' fecit, & se in terram pre-
dictam, prefato A. pro maritagio suo non satisfacto
violent' intrusit, & de maritagio predict' eidem A. sa-
tisfacere contradicit, ad graue dampnum ipsius A. &
& contra formam statuti predicti vt dicit. Et ha-
beas ibi sum &c. Teste &c.

This writ is given by the statute of Mer-
ton Cap. 6. and lieth where the Lord pro-
fereth conuenable mariage to the infant
without disparagemēt, and he refuse, and he
being within age marry himselve, in this case
the Lord shall haue the writ of forfeiture
of marriage, and recouer the double value.
And if this gardein hath recouered the va-
lue of the marriage against the raiushour, if
hee profer to the heire a conuenient marri-
age, and hee refuse to bee married, and after
M.ij. marry

Natura

marry him selfe, the lord shal not recouer the double value of the mariage, for that, that he tooke the value of the mariage of the raupshoz. And if the heire that is rauished be married without assent of the rauishment, & after the gardeine recouereth the value of the mariage against the raupshoz, in this case the raupshoz shal not haue this writ of Forfeiture of mariage against the heire, for the heire may plede that he hath no right of the seigniorie, nor y^e lord shal not haue a writ of Forfeiture of mariage, for that, that he hath receiued the value of the mariage against the raupshoz. Note ye: that some mens opinions is that in a writ of Forfeiture of mariage, the value of the mariage is not geuen to the lord, where he hath the land in his hand, by reasoⁿ of which he hath the wardship, but if y^e heire abate in the lande at his full age afore that he hath agreed with the lord for his mariage, he shal haue the said writ, for that is mentioned of in the writ, but in case that hee hath not the wardship of the lande, he shall haue the writ aforesaid, for there shall bee no mention made of the abatement of the heire into the land.

Land was geuen to the husbände and his wife, & to the heires of their two bodies begotten, and hath issue a sonne, the husbände dyeth, and after the wyfe dieth, and the lord seyle the swarde, and profer to him maryage, the which he refuseth and marieth himselfe, and at his ful age he entred in his land without graement made to the lord, the lord byngeth

geth a writ de Quare se intrusit maritagio non
satisfacto, in the which writ he did suppose þ
the defēdant was heire to his father, where
the mother suruiued & the defendant pleaded
that in abatement of the writ, and the writ
was awarded good: for that, that it is in the
personalty, & it is a personal wrong made by
him self to which he ought to answer. And
the gardein shall recouer the double value of
the mariage. H. 14. C. 3.

¶ A writ de Rauishment de garde.

Rex Vic' salutem. Si A. de B. & E. vx. eius fece-
rint &c. tunc pone &c. quod sit coram Iustic'
nostris ad primam assisam &c. ostens. quare I. filiu-
m & heredem H. infra ætatem existentem, cuius
maritagium ad ipsos A. & E. pertinet, apud VV. in-
uentum rapuit & abduxit contra voluntatem ipso-
rum A. & E. & contra pacem nostram.

Et si heres sit in eodem comitat, tunc addat ista
clausula.

Et interim diligent inquiras vbi ille heres est in
ball tua, & ipsum, vbicunque inuentus fuerit, capias
& saluo & securé custod', ita quod eum habeas ad
prefatam assisam coram prefatis Iusticiarijs (vel co-
ram nobis) ad prefatum terminum, vel cor prefat
Iustic' nostris ad prædictum diem, ad reddendum
cui (vel quibus) dictorum A. E. & I. reddi debet.
Et habeas ibi nomina pleg. & hoc breue. Teste &c.

Ostens. quare cum custodia Iulianæ filix vnus
her G. ad ipsum B. pertineat ratione venditionis quā
A. de T. de quo prædictus G. terram suam tenuit p
seruitium militare, inde fec' eidem A. præd B. & C.

M. iiii.

præ-

Natura

predictam Iulianam infra etatem in custodia ipsius A. apud N. existē, vi & armis rapuerunt & abduxerūt, & bona & catalla ipsius A. ad valent &c. ibidem inuent ceperunt & asport &c.

This writ lieth in case where any lord is in possession of the wardship of the land, & of the body, and a stranger rauishe the body of the infant without any other thing, then the lord shall not haue the foresayde writ, De cōmuni custodia: but this writ of Rauishment of warde, that supposeth the infant to be rauished with force and armes. And for that, the proces is, as is contayned in the foresayde statute, that is to say, Somons, Attachement, and distres, and for default of distres, proces of vtlawrye, as in a writ of Trespas.

And note ye, that when the heire is rauished in one countye & brought into another county, then the lord shall haue such a writ, the which is geuen by the statute of Westm 2. Cap 15. which beginneth, De pueris masculis, siue femellis, quorum maritadium &c.

Rex vic' salutē. Questus est nobis A. quod B. nuper de C. filium & heredem I. infra etatem et in custodia sua apud M. in cōm L. existē rapuit, & de cōm illo ad talem locum in cōm tuo abduxit, contra voluntatem ipsius A. & contra pacem nostram. Et ideo tibi precipimus quod predict' C. v. bicunque in balliua tua inuenir poteris capias saluo & secur' custod, ita quod eum habeas coram Iustic. nostris tali die, ad reddendum cui predict' A. & B. reddi debeat &c.

¶ De herede abducto fiat tale breue.

REx &c. Ostens. quare cum custodia terræ & heredis D. vsque ad legitimam ætatem eiusdem heredis ad ipsum A. pertinet, eo quod prædictus D. terræ suam &c. Et idem A. in plena & pacifica seissina &c. prædictus D. filium & heredem &c.

And þ̄ proces is, as is aforesaid in þ̄ writ of Ratiſhment of Warde &c.

And note ye that if any man holdeth any lands or tenements of any Lord by knights seruice and dieth, his heire within age, the same Lord may enter in that wardeship of þ̄ land, & take the body of the heire. And if one tenant hold .ii. acres of land ſenerally by ſeuerall ſeruices, the Lord of whom the lande is holden by the auncient ſcoffemēt ſhal haue the ſward of the body, & that is geuen by the ſtatute of Weſtm. 2. Cap. 19.

And note pee, that there is two maners of writs of Ward. The one is where a man holdeth of another landes by knightes ſeruice; The other where hee holdeth in Socage. The wardship by knights ſeruice belongeth to the chiefe Lord of the fee. And the wardship in Socage belongeth to the next coſin, after the ſtatute De wardis 28. E. 1. to whom the heritage may not diſcende. But in caſe þ̄ the mother be on line & the heritage diſcende from the part of the father, and the heire bee within age, the mother ſhal haue the wardeship aſwel of the land as of the body, & in the ſame maner ſhal the father haue & ſo ſhall other coſins & aūceſtoꝝ haue.

And in caſe that the next frend be deſoꝝced
of

Natura

of the ward, he shal haue this w^{rit}.

REx vic' salutem . Præcipe A . quod iusté &c. redd' B. custodiam terr' & heredis C. que ad ipsum B. pertinet, eo quod prædictus C. terram suam tenuit in Socagio, & prædictus B. est propinquior heres ipsius C. vt dic'. Et nisi fecerit &c. Teste &c.

And if the heire in Socage bee raniſhed and not married, then the gardeyne shal haue this w^{rit}.

REx vic' salutē. Si A. fecerit te &c. de &c. tunc pone &c. B. quod sit &c. corā Iustic' ostens'. quare cum custod' terr' & hered' C. vsque ad legitimam ætatem ipsius hered' ad ipsum pertinet, eo quod prædict' C. terram suam tenuit in socagio : & prædict' A. propinquior est her' ipsius C. infra ætatem, & in custod' ipsius A. existē apud N. inueni vi & armis cepit et abdux, & alia enormia ei &c. vt in breui de transgressionē.

Aliter qñ maritatur. Rex &c. vi & armis cepit & abduxit &c. ipsum sine licentia et voluntate ipsius A. maritauit, ad graue &c.

And note yee : that a w^{rit} of Raniſhement of warde for the gardeyne in Socage is not geuen by the statute of West. 2. Cap. 35. which beginneth : De pueris &c. But for that, that y^e statute of Westm. 2. Cap. 24. is quod querentes non recedant a Cancellar' sine remedio : this w^{rit} is geuen by the common counsel of the Chauncery, and the w^{rit} was that he claimeth the warde vntill he come to full age, and the w^{rit}te was awarded good: Note ye: that gardenship in socage may not be solde. H. 3. C. 2.

And

And note ye: that a man may demaund the wardship in thre manners. One manner is when a man demaundeth the wardship of the lande & of the body by writ of right of ward, as afore is said. The second maner is, when one tenant holdeth of two lordes, of the one by priority, & of the other by posteriozitie: þe lord of the posteriozity may not bring a writ of swarde of the land and the body: for the body belongeth to the Lord of the priority, and there the lord of posteriozity shal haue a writ of Eiectment de gard. The thirde maner is when a man hath the land and not the body, Then he shal haue a writ to demaunde the body without the land, and that by this writ of Raviishment of warde.

And note in case where the heire hath ben in warde of the lord, and the lord wil not deliver to him his landes at his full age, Then the heire shal haue Assise of Mortdauncestoz and recouer the lande with his damages, after that, that hee come to his full age, As it appeareth by the statute of Mart Capitulo 16. which beginneth. Si heres aliquis &c.

And note ye: that if the infant bee maried in the life of his father, though that after the death of his father he is within age, and the wife of the heire dyed, the lord shal not haue the mariage for that, þe he was one time married. In the same maner is if the lord marry the Infant & his wife died, he being within age, the lord shal not haue the mariage another time.

Natura

It is said that there is gardeine in right & Gardein in deede, for if the gardeine in deede let the lande to a straunger for yeres, a writ of *Wower*, or a writ of *ward* is not mayntenable against him, but against *h* lord. Otherwise is where the gardeine in right, or gardein in deede, lets his estate without *w*yp-tinge vntil the ful age of the infant, in which case the writ shall bee maintayned against those lessees.

And note: that if the heire hath bene in ward, he shal pay no relief but where his auncellor held of the king by knights seruice, or by fee farme, that payeth knight seruice, the king shal haue the ward of al the lands & the body, & when he commeth at his full age, he shall pay relief to these other lords, after the quantitie of his tenure, as it appeareth by the great Charter cap. 2. But the heire in franke Socage, when he commeth to his full age after the death of his auncellor he shall double the rent that he was wont to pay to the lord and that shal be in place of reliefe, As it appeareth by the statut de wardis & releuijs Cap. primo.

Note ye: that Socage may be said in iij. maners, that is to say, socage of free tenure, Socage of auncient tenure, & socage of base tenure. Socage of free tenure is where a man holdeth by free seruice of xij. d. by yere for al manner of seruice, or by other seruices perely. And in this Socage the next cosin to the infāt to whom the heritage may not descend, shal haue the ward as it is aforesayde.

Socage

Socage of auncient tenure is of land of auncient demesne where no writ original shalbe sued, but the writ of right, & is called Secundum consuetudinem manerij. Socage of base tenure, is of those that holde in socage, & may haue none other writ but & Monstrauerunt, & such Socage holdeth by no certain seruice & for that are they not free socemen.

A man shal haue a writ of Rauishment of warde of the body notwithstanding that hee was neuer in possession of the body, for main-tenant after the death of his tenant, the heire being within age, the possession of him is ad- iudged in the lord by the act of the law.

If a man make a feoffement by deede or by fine of landes holden by knights seruice, or suffer any recouery against him to his vse vpon trust & dieth, his heire shal pay reliefe if he be of ful age & that by the statute of An 4. H. 7. cap. 7.

And if the tenant in socage make feoffement to his vse, the lord of whom the land is holden after the death of his tenant, whereof no will is declared, shal haue his reliefe and heriot & al other dueties, as he ought to haue had, if the tenant had died seised. And that by the statute of An 19. H. 7. cap. 15.

In a writ of Rauishment of warde &c. It was sayd that if the ternaunt of a Byshop die, his heire within age, and after the Bishop died and seyse not the Infant in his life, the succellour may seyse, or haue a writ of Rauishment of warde. And it was sayde, that it is no plex in a writ of Rauishment of

Natura

of ward to say, y^e the auncestoz of the infant held not of him, for whether he holdeth of him or not, it shal not be lawfull for no man to rauish the ward from him without affirming title in himselfe. D. 2. H. 4.

In a writ of Rauishment of warde the plaintife declareth y^e the father of the infant holdeth of him a manor by knights seruice in S. & c. & that the defendat hath him rauished & in the writ y^e infant was made heire to his father, because y^e the father died seised of the said manor in his demesne as of fee. And the defendant alledged that y^e grandfather of the infat died later seised & c. so ought he to haue ben made heire to the graundfather, & not to the father, & that was no plee wout shewing y^e the graundefather died later seised by title, for it may be that he was in by abatement, & after the issue was taken, that the graundfather dyed later seised of fee, without that, that the father died seised of fee, & the playntife maintained that the father dyed seised of of fee & c. H. 10. E. 3.

A writ of Rauishment of warde was brought against iij. men & a woman, the inquest said that the men were guilty of the rauishment, & not the woman, but that she married the infant to her daughter, & for y^e was she likewise adiudged guiltie as y^e other were, & the plaintife recovered the value of y^e marriage without dammagess, & they awarded to prison by the statute of West. 2. cap. 1. And it was demaunded of y^e plaintif if they were sufficient or not, & he said that they were: for
other:

otherwise they ought to be awarded to perpetual prison, or abiured the land by the same statute. C. 8. E. 3.

¶ A writ de Eiectione custodie.

REx vic' salutem. Si A. fecerit &c. tunc sum per bonos &c. B. quod sit &c. tali die ostens. quare custodia terre & heredit' D. vna cum maritaggio vsque ad legitimam aetatem eiusd' her' ad ipsum A. pertineat pro eo quod praedictus D. terram suam tenuit de eo per seruic' militare. Et idem A. in plena et pacifica seifina eiusdem custodie diu extiterit praed' B. ipsum A. a custodia illa vi & armis eiecit ac bona et catalla sua ad valenc' C. s. apud D. inueni cepit et asportet, et alia enormia &c. et contra pacem nostram &c. Teste &c.

This writ lieth where the lord is put out of the wardship of the land that he hath in his possession, then the lord shal haue the said writ against him that putteth him out. And know ye, that this writ of putting out of the wardship lyeth at al times, when the lord is put out of the wardship of the land without the body. And a writ of Rauiishment of ward lyeth where the body is rauished without the land. And a writ of right of warde lyeth where he is put out of both. And it is sayd, that the gardeine in Socage may mainteine this said writ and a writ of Rauiishment of warde, but not a writ of Ryght of warde. By the Register a man may haue a writ of Right of warde, and also a writ of Rauiishment of warde by reason of a ward. And know ye that in a writ of right of warde the
procla=

proclamatⁱō shal not be made afoze the great distresse retourned, but in a writ of meane in the great distresse, it shalbe commaunded to the sherife that he make the proclamation, as is geueⁿ by the statute of Westm cap. 9. which beginneth Cum capitales domini &c. And also the same statute Cap. 35. which beginneth. De pueris &c. Will that in a writ of ryght of warde proclamation shal be made by default of the defendand, but by the same statute in a writ of ranshment of warde by default of the defendand he shal make no proclamatiōs, but al times a distresse. And also knowe ye: that gardein in socage is accomptable at the ful age of the infant, as it is said in a writ of accompt, that is to say, at xxi. yeris, and not afoze, but the infant shal haue his iand in his owne handes when he is of the age of xiiij. yeris.

And note ye: of lands holden by knights seruice, the statute of Mart cap. 6. which beginneth, De hijs autem &c. Will that where the heire is enfeofed, being within age by his auncestoz, that the Lord shal not lose the wardship by reason of such feoffement made by such Collusion. And also by a feoffement made vpon condition by the auncestoz yelding to him & to his heires a great summe of money vnto a certayne terme, at the ende of which terme the heire may be of full age, and then to enter into the lande, in this case the lord shal not lose the wardship, if hee may proue by his writ of right of warde that the tenant made the feoffement by collusion, and

if lands be let for terme of life, the remayn-
der to an other in fee, and he in the remainder
dieth, his heires within age: the Lord shall
not haue the wardship of him during þe lyfe
of the tenant for terme of life: but if the te-
nant for terme of life dye, the heire beinge
within age, and enter into the land by force
of the remainder, now the lord shall haue the
wardship: for that, that he is heire to his fa-
ther. And in case that a man let lands or te-
nements to another for terme of life, sauing
the reuerſion to him and to his heires: if the
leſſor dye, his heire beinge within age, þe lord
shall haue the ward and marriage of the heir,
notwithſtandinge that he hath eſtate for
terme of life, to hold of the chiefe lord of the
fee. And alſo if land be geuen to two: to the
one in taile and the other for terme of lyfe,
if he in taile die, his iſſue within age, the lord
shall not haue the ward of the bodie: for that
that the tenant for terme of life is tenant to
the chiefe lord: but after the death of the te-
nant for terme of life, the heire beinge within
age, he in the reuerſion shall haue the ward-
ſhip, and not the lord.

If the father be ſeiſed of certain lands and
tenements, and hath iſſue a daughter with-
in age that is his heire, and marie her to a
man of full age, and dieth, the lord shall not
haue the wardſhip: for that that the huſbād
is able to make the ſeruices due by reaſon of
the land.

But in case that a man marrie his daugh-
ter beinge of full age to an infant, and dyeth,

Natura

in this case the Lord shal haue the wardship, for the wife may make no seruices duringe the mariage. Quare.

And note ye, that all writs of ward except this writte of puttinge out of the warde, may be pleaded in the countie, and remoued into the common place by a Pone. And where the statute of Westm. ij. cap. 16. which beginneth, In casu &c. will, that if landes discende from the part of the father holden of one mā, and other landes discend from the part of the mother holden of another man, the Lord of whom the land is holden by the first feffement shal haue the wardship & the mariage: but the tenant by his feoffement may change the prioritie into the posterioritie. But it is said if a mā come to diuers landes holden of diuers lords by one feffement, he that first may obtaine the wardship of the todie, shal haue it: but if landes be holden of the king by knights seruice, he shal haue the wardship aswel of the landes holden of other lords by knightes seruice, as of any other landes holden of him self, and also shal haue the mariage, hauing no regard to the prioritie nor to the posterioritie, as it appeareth by the kings Prerogative chap. 1.

And note ye, that this was iudged for the Earle of W. anno 20. E. 3. where the Earle was seised of an infant & of his landes, for y^e that his auncestor died in his homage, where other landes were discended to the said infāt by another auncestor that was holden of the king by prioritie or posterioritie: in the one case

case or other, the kinge shall not haue the wardship of no lands, but of such lands holden of him selfe, nor the wardshippe of the wodie, & the cause is, for that, that the Earle was seised of the ward at one time by true title. And know ye, that if any tenant died seised of any lands holden by posteriozity, and the Lord of whom the land is so holden obteyneth the wardship of the wodie: if after other lands discend to the same infant, that are holden of another lord by prioritie, & lord that first obtained the ward shall not be put out of the wardship by him of whom the ancestor of the heire held by prioritie: for that that it was a chatle one time in the possession of the lord of whom he held by posteriozity.

And note ye, & if two coparceners bringe a writ of ward, & the one wil not pursue, the other shalbe receiued to pursue her right of the half of the land & the whole wode: otherwise is in all maner of actions personalls, as trespass, debt, couenant or such like, the notsuing of the one, shalbe the notsuing of the other. And note ye, that if an infant be rauished & married by the rauishor to one, whereby he is disparaged, he may forsake his wife if he hath not knowen her carnally before the age of xiiij. yerres.

Note ye, that these words were in þe sayd writ, Quare custodiam terræ & heredis: and it was chalenged. For this writ properly hath relation to the land, & he may haue an other writ for the wode: & notwithstanding þe writ was

Natura

was awarded good. C. 2. E. 1.

Note ye, that this said writ was brought of land & rent, and was challenged for that the rent may not be holden: for the mesne is tenant of the land having regard to his lord, and of him he holdeth the land and not the rent. For these writs of Ward, Escheat and Cessavit are not geuen of rent &c. but after of good will the defendant passeth over. Ideo quare. H. 13. E. 3.

In this writ of putting out of the sward by reason of a devise, such a clause was in the writ, et blada sua apud H. nup crescen mesuerunt, et blada illa ac omnia al bona et catalla ibid inuent, ceperunt et asportauer contra pacem: & for that, that this writ was graunted vpon the right of the seigniozie, and within the same an action of trespass against the peace was comprehended: so is there comprehended in the same action, two actions of diuers natures. wherefore the writ abated. H. 11. E. 3.

If an Infant being aboue the age of xiiij. yeares make affiance in the life of his auncestor, and after his auncestor dyeth, notwithstanding this affiance, the lord shall haue the mariage.

Also if the Infant be married in the lyfe of his auncestor, and the auncestor and shee to whom the infant was married, dyeth, the infant being within xiiij. yerres: the lord shall haue the mariage: otherwise it is if he were past the age of xiiij. yerres at the time of the death of his auncestor, or at the time of the death of her to whom he was married: for by the

the taking of the second swife, he is made bigamus to which the law will not constrayne him: but if the infant be married by the lord, and shee to whom he is married dyeth, he being vnder the age of fourtene yeares: Quære if the Lord shall marrie hym an other tyme. In. 7. h. 6.

If the tenant that holdeth by Knightes seruice enter into religion, his issue within age, Quære, if the lord shal haue þ swordshipp during the naturall life of the father, for such death maketh no discent, that taketh away any mans entre, nor such death intitlith no woman to haue dower during the naturall life of the husband.

A VVrit of Escheat.

REx vicecomiti salutem. Præcipe A. qđ iustē & sine dilatione reddat C. decem acras terræ cum ptinenti in N. quas B. de eo tenuit, et quæ ad ipsum C. reuerti debent tanq̃ eschaeta sua, eo quod præd B. bastardus fuit, et obiit sine hæred', vt dic' &c.

Aliter ratione felonix: quas de eo tenuit et ad ipsum C. reuerti debent tanq̃ eschaeta sua, eo qđ præd B. felon fecit, pro qua suspensus fuit, vel vtlaga fuit, vel sic. pro qua regnum nostrum abiurauit. Et nisi fecerit, tunc sum &c. Teste &c.

This writte may be formed in manie manners: for if the verie tenant of any Lord þ holdeth any tenement of him without mesne make felonie, for the which he is hanged, or forswere the kings land, or if he be beheaded, or outlawed, or vanquished by battaile to death, or if hee be bastard and dye without heire

Natura

heire of his bodie, or die without heire generall or special: then if any man enter in those lands or tenements, the chiefe lord of whom he holdeth, after a yere and a day of the felonie made, may recouer the tenements aforesaid by this writt of Escheat accordinge to his case, as it appeareth in the Register. And the Proces is in this writ, Somons, grand Cape and petite Cape. And against the Jurors Venire facias, Habeas corpora and Distres.

But if the tenant in taile, tenant in socer, tenant by the curtesie, or tenant for terme of life make felonie, for the which hee is attainted (as is aforesaid) the King shall haue the Escheat duringe their liues, and after their deathes, he in the reuersion shall sue to the King by petition, and shall haue the said landes out of the Kinges hands, and not the Lord by way of Escheat, for that, that the sayd tenants are not verie tenants to the Lord: For none is called verie tenant, but tenant in fee simple. Nor hee in the reuersion may not haue the land during the lyfe of such tenants, for that, that the land is geuen to them by the law during their liues without any such forfeiture to him in the reuersion, but the king shall haue the land, as aboue is said, for the haynous act committed against his law.

And note ye, that in magna Charta cha. 22. which beginneth, Nos non tenebimus &c. will that if the tenant in fee simple make felonie &c. the king shall haue the lands for a yere & a day, & after to be yelded to the chiefe Lord
immediat

immediat. And the kings prerogatiue ca. 17
 wil that the king shall haue such lands for a
 yeare & a day, & after the tenements shall bee
 wasted & distroied, that is to say, houses, gar-
 deins, woods, & euery other thinge belonging
 to the said tenements, & after they shall be de-
 liuered to þe chiefe lords, except those tene-
 ments þe are in Glo. & Kent in gavelkind, & þe is
 by custome: for those tenements shall reuert to
 þe next heir, as if no felony had ben made. And
 note ye, that if tenant in fee simple be attain-
 ted of felonie & dieth, his wife shall not be en-
 dowed, nor his heir inherite: but if þe tenant
 in taile be attainted of felony and dieth, his
 heire shall inherite, for that, that he is helped
 by the statute of westm. 2. ca. 1. þe wil that by
 deed nor by feffement, the heir in tail shall not
 be barred: but in that case þe wife shall not bee
 endowed, for that, þe hath no action at the
 common law, nor yet helped by the statute.

Note ye, that where a man is outlawed
 for felonie, euerie action þe he hath for catals,
 goods & inheritance, the right thereof is ex-
 tinguished in his persō, & he is not answer-
 able: but if he purchase his Charter of par-
 don, and purchase other lands after in fee, it
 is said that his issue shall inherite, but if hys
 heire do a felonie, and for the same outlawed
 in the life of his father, & after the death of
 his father he purchase his charter of pardon,
 yet he shall neuer inherite, for that that the
 bloode beetwixt hym and his father at one
 time was corrupted. And note ye, that if a

R. iiii.

man

man be outlawed for trespass, he shall neuer be answered in any action parsonall vntil such time, as he hath purchased his charter of pardon: but in any plee real, to say that he is outlawed of trespass, that is not to the action, but to the person, as Excommengement is. And know ye, that a man shall not haue his charter of pardon for parsonal trespass allowed, except he sue a Scire facias out of the record against the partie, at whose suit he was outlawed, or know wherefore his charter of Pardon should not be allowed, and that is geuen by the new Statute of Ed. the 3. Anno 5. chapter 12.

And note ye, that if a man be beheaded for felonie by iudgement, the Lord shall haue a writ of Escheat, and shall say that he was hanged: and it shall be no trauers to say that he was not hanged, and that was iudged in the Parlyament. An. 8. E. 3.

In a writ of Escheat, the writ was challenged, for that, that hee supposed, that hee that made the felonie held of the father of the demaundant, whose heire hee is, where the writ should be, quod de eo tenet, for that that after the death of his auncestors, whose heire hee is, he was tenant to him because of the seigniozie descended: and not allowed. P. 46. Ed. 3.

If a man hold two acres of land of a man by severall seruices, & dieth without heyre, it is conuenient for the Lord to haue two writts. And if a man hold of me x. acres of land, and afoze the statute he make a feoffement

ment of one of them to holde of him by .vi. d. and died without heire. I shall have a writ of escheat supposing that he holdeth of me .ix. acres & .vi. d. of rent & yet in dedde hee holdeth the land of me, and the cause is for that, that they of the chauncery will not graunt a writ of any forme. C. 14. H. 7.

In a writ of Escheat, it is no plee for the tenaunt to say that hee, that the defendaunt supposeth to be seised, that hee died not seised of the land, but it is a good plee to say that he died not his tenaunt, and that issue shalbe taken vpon that. M. 2. H. 4.

And by the same reason hee may say, that he holdeth not of him. M. 37. H. 6.

In a writ of Escheat it is not convenient for the demaundant to shew in his declaration, for what felony his tenant was attainted C. 3. E. 2.

And if he shew any recozd to proue the attainer, and error is in the recozde, it is not materiall. M. 14. E. 3.

If my tenant be iudged to bee hanged and after is deliuered to the ordinary, I shal have a writ of Escheat. H. 34. E. 3.

In a writ of Escheat, the defendaunt may make discent from his auncestour to him. M. 13. E. 2.

Note yee: that if rent seruice bee giuen in taile, and the tenaunt in taile discontinue in fee, and the tenaunt attourne and died without heire, so that the land escheat to the discontinue, the tenaunt in taile died without issue, the donour shal have a writ of Escheat, and

Natura

and not a *fozmedon* in the reuerter. *H.* 33.
E. 3.

By the opinion of *Parñ* and *Trew*, that a writ of *Escheat* lieth not of rent, and that appeareth in a writ de *Eiectione custodie.* *H.* 13.
E. 3. *E.* 11. *H.* 4.

In a writ of *Quare se intrusit maritagio non satisfacto*, the opinion is that a rent lyeth in tenure. *H.* 4. *An.* 10. *H.* 6.

The lord and the tenant are, the tenant let his land for terme of life yelding certaine rent, the tenant hath issue & died, the lessee paide to the heire, and the heire paide the seruices to the lord, as his tenant and make felony: for the which he is hanged, the lord shall haue a writ of *Escheat*: for that, that he was seised by the hands of him that was attainted as by the hands of his verie tenant. *H.* 26. *E.* 1.

Note ye, that if the disseisie be attainted of felony, the lord may enter in the land. *E.* 6. *H.* 7.

A writ de *Conuentione.*

Rex vic' salutem. Præcipe A. quod iuste &c. teneat B. conuentionem factam inter ipsum A. & S. patrem prædicti B. cuius heres ipse est, de vno meluagio &c. (vel sic) inter I. patrem vel matrem, vel fratrem vel sororem, auunculum, amitam, vel consanguineum prædicti A. cuius hæres ipse est. Et C. patrem prædicti B. cuius hæres ipse est. Et nisi &c. tunc sum, Teste &c.

This writ lyeth where couenant is made by indenture sealed betwixt two parties, and the one of them hold not couenant, then he

he that feeleth him greued shal haue the said writ. And also if landes or tenements be let for terme of life, or for yeares by indenture, or if the lessor put out the tenant, or if the tenant perfourme not the couenants, he that feeleth him greued, shall haue the said writ. And note ye, that no writ of couenant shall be maintained without writting. And the proces is Sommons, Attachment and Distres, vntill the partie come, for default of distresse proces of vtlawrie. And the writ of Couenant may be pleaded in the countie, or before the Iustices of the comon banke, & may be pleaded by the same delayes, as a writ of trespass may. And note ye, that a writ of Couenant lyeth not but betwixt those that are parties to the Couenant, or their heires or their assignes, as the writ will.

Note ye, that this writ ought to be, that the defendand ought to hold couenant of so much land, and not general, as of all þ lands let to him, and the writ of Couenant, for leuying of a fine, shal be certaine of what land
H. 46. C. 1.

In couenant the writ was to hold couenant of a mesuage and an hundred acres of lande in M. and the Indenture was of all the landes and tenementes in M. the writ did not abate for the variance. Michaelis
47. C. 2.

Note ye, that if a man let lands in Midd by indenture þ are in another countie, if the lessee be put out, he shall haue this action of couenant where the lease was made, or in the
the

Natura

the countie where the land is, notwithstanding that the deede beareth date where the lease was made. *C.* 27. *H.* 6.

Note by the opinion of the court, that a writ of covenant lyeth not of free hold, if it be not of a speciall matter shewed, as if a disseisor let lands to me with warrant & binde him by Indenture, that if the disseisor enter and put me out, then I shall haue a writ of covenant, but if the lessour or any other that hath no right put me out, I shall haue a writ of Trespas. *C.* 26. *H.* 6.

Note ye, that in London a man shall haue a writ of Covenant without writing by the custome. *C.* 17. *H.* 6.

A writ de Dedimus potestatem de
fine leuando.

Rex dilecto et fideli suo A. de B. salutem. Cum breue nostrum de conuentione pendeat coram vobis et soc' vestris &c. inter VV. et H. de x. acris terræ, cum pertiñ in N. ad finem inde coram vobis in eodem banco secundum legem leuand' &c. ac præfatus VV. adeo languidus sit, et senio confractus, quod vsque VVestmonaster' ad diem in breui prædicto contentum absque maximo corporis sui periculo veniñ non possit ad cogn', quæ in hac parte requiruntur faciend', vt accepimus, nos statum eiusdem VV. compatientes in hac parte, dedimus vobis potestatem recipiendi cognit' quam prædictus VV. fac' voluerit in præmissis. Et ideo vobis mandamus, quod ad præfatum vv. personaliter accedentes cognitionem suam recipiatis. Et cum eam receperitis, præfat' socios vestros inde sub sigillo vestro

stro distincte & aperte reddatis certiores : vt tunc finis ille inter partes prædictas de terris prædictis in eodem banco leuari possit secundum legem & cons. regni nostri. Et habeas &c. Teste &c.

This writ lieth in case where two men are agreed to leuie a fine in the kings court, and the one of the parties is so feeble that he may not trauaile, then he may purchase this writ out of the Chauncery to one Judge, or to two or mo, or to a serieant sworn to the king, rehearsing how the writ of couenant hangeth betwixt the parties, & he that hath pursued this writ of Dedimus potestatem, is so feeble that he may not trauaile &c. for to make the recognisance betwixt them, and that the Judge in his proper person go to the partie that is so feeble to receiue the recognisance, and to certifie the Iustices of the common banke, and when they are comen with the recognisance into the court, that the saide fine shall bee ingrossed and inrolled. And in this write is no proces, but where such Iustices hath receiued the recognisaunce in the maner aforesaid, and will not certifie their fellowes of the said recognisaunce, then the party that hath made the recognisaunce may haue a writ directed to the same Iustices commaundinge them that they certifie their fellowes of the same recognisaunce vnder their seales, and to haue another writ directed to the Iustices of the common banke, that they receiue the said recognisaunce of them, as it appeareth by the Register.

¶ A writ

Natura

¶ A writ de Contributione facienda.

Rex &c. Margarete B. vel balliuis Margarete B. de
A. salutem. Cum de cōmuni consilio regni nři
prouisum sit, quod si hereditas aliqua &c. de qua v-
nica tantū fiat secta pro hereditē illa, sicut prius con-
suefuit, fiat debita contributio ad eādem, ac VV. M.
de N. custod' scolarium de N. alijs quā amplius vendi-
der' terras & tenementa sua N. de quibus vnica secta
tantum ad curiam predictam de N. debetur: sicut ij-
dem custod' nobis monstrauef, vobis precipimus,
quod non distringat' custodē nisi pro porcione sibi &
prefat' scolār contingentē de terris & tenementis pre-
dictis ad seperalem sectam faciendam ad curiam pre-
dictam, vel ad cur' predict' domini nostri de N. contra
formam prouisionis predictæ. Teste &c.

¶ A writ de Assisa nouæ disseisine.

Rex vicem salutem. Questus est nobis A. quod B.
iniuste & sine iudicio diss. eum de libero tenemē-
to suo in N. post primam transfr' domini H. regis fi-
lij regis Iohannis in Vascoñ. Et ideo tibi precipimus
quod si predictus A. fecerit te secur' d' clam suo prof.
tunc fac. tenementū illud reseisir de catall' que in ipso
capē fuerunt, et ipsum cum catallis esse in pace vs-
que ad proximam assisam cum Iustic. nostri in par-
tes illas venerint. Et interim fac. xij. liberos & lega-
les homines de vicin' illo videre teñ illud, et sum' quod
sint coram prefatis Iustic. nostris ad prefatam assis-
sam parati inde facere recogn. Et pone per vad' &
saluos pleg. predic' B. vel balliuum suum si B. ipse
inuētus non fuerit, q' tunc sit ibi ad illam recogn. Et
habeas ibi sum' nomina pleg. & hoc breue, teste &c.

¶ The

¶ The patent of the same writ.

REX &c. Dilectis & fidel' suis A. B. & C. salutem.
Sciatis quod constituimus vos Iustic. nostros vna cum hijs quos vobis assoc' ad assisam Nouæ dissei-
finæ capiēd' quam A. arraiñ coram vobis per breue nostrum versus B. de tenemento in I. Et ideo vobis mandamus, quod ad certos diem & locum quos ad hęc prouideritis assisam illam capiatis, facturi inde quod ad iustic' pertinet, secundum legem & consuetudinem regni nostri, saluis nobis amerciamentis inde prouenientibus. Mandauimus enim vicecomiti nostro S. quod ad certos diem & locum quos ei Scire faciat assisam illam coram vobis venire faciat. In cuius rei testimonium has literas nostras fieri fecimus patentes Teste, &c.

This writ lieth where a man is disseised of his free holde. s. of landes, Tenementes, rentes, common of pastures or such lyke that hee holdeth for terme of life, fee taile or fee simple, or where hee hath lande or tenement that is deliuered to him by vertue of a recognisance of the statute marchaunt, or by the statute of the Staple, or by Elegit, as it appeareth by the statute of marchaunts, or by the statute of the Staple. An. 27. Ed. 3. Cap. 9. And by the statute of Westm 2. Cap. 18. the disseisour shall haue the saide writ against the disseisour, or against whosoever is in possession (tuing the disseisor) and it is necessarie that the disseisor bee named in the writ or otherwise the writ shall abate, and that is ginen by the same statute of Westminster second. And note pæ, that if the Gardein or the chiefe

Natura

chiefe Lord make a feoffement to any man, of the lande that is of the heritage of him that he hath in warde to the disenheritance of the warde, the warde maintenanant may haue the saide writ and when the land is recovered, it shalbe deliuered by the Iustices to the nexte friend of the infant, to whom the heritage may not discend, and to answere the heire of the profits of the lande when hee commeth to his full age, as it appeareth by the statute of Westminster. 1. Cap. 47. which beginneth. Si Gardein &c. And looke þ statute of Westminster. 1. Ca. 36. which beginneth. Purueu est enseint & accord &c. howe a man shall bee punished for disseison with robbery. Also, if the Escheatour, Shiriffe, or Bailiffe of the king, disseise any man by colour of his office without speciall warrantie or commaundement of the king: the disseise may recover by the said writ, and recover double dammages: as it appeareth by the statute of Westminster 1. Capitulo. 24. which beginneth. Purueu est ensement que nul Eschetour &c. And in what cases that this writ lieth, looke the statute of Westminster. 2. Capitulo. 25. which beginneth. Quia non est aliud breue &c. And howe and in what time this writ shall bee taken, looke the statute of Westminster. 2. Cap. 30. which beginneth. Assign de cetero duo Iusticiar &c. And in Magna Carta, Capit. 12. which beginneth. Recognitiones de Nouel disseisin. And looke the new Statute of Ed. 3. An. 2. Capit. 2. & 6. And in the Statute of Fines, Capitulo. 4. which beeginneth.

Item

Item cūm statuimus &c. And in the statute of Yorke cap. 3. which beginneth. Quod come fil soit contenus &c. And the proces in thys writ is Attachmēt against the partie, Summons, Habeas corpora and distresse against the Jurozs untill they come.

And note ye, that freehold is called, where a man holdeth land oz tenement in fee simple, fee taile, oz for terme of lyfe at the least.

In Assise the writ was pone per vadium & saluos pleg. prædict I. vel ballium suum, quod sic ibi auditur &c. where it should be, quod tunc sic ibi, and the Court was in opinton to abate the writ, wherefoze the plaintife was nonsuit. W. 26. H. 6.

Assise was brought by the husbände and the wife, the parties were at issue, but not of the point of the assise, and was founde for the plaintifes how the wife was disseysed afore the mariage, and that the husband had nothing, so the writ was false, disseisuit eos, and notwithstanding the plaintife recouered W. 44. Lib. III.

If there be iij. Jointtenants, and tſwo disseise the other tſwo, all forwer brought Assise against tſwo of them that were disseysours: and the writ was disseisuit eos, so the writte supposeth that the tſwo disseisours disseised them selves, and notwithstandinge the writ was awarded good.

And if tſwo Jointtenants are disseised by a straunger, and after the one come to the tenancie by purchase, if the other wyll recouer, it behoueth that both bee named, for
D. j. that

Natura

that, that the wordes of the writ may bee true, quod disseiuit eos. But when one iointenant puteth out the other, this worde disseiuit eos is false, for the one may not disseise hym selfe, therefore hee shal haue a writ in hys owne name. An. 24. E. 3. Li. ass. pla. 9

In Assise, the tenant said that the playntiffe is his villaine, iudgement &c. the playntiffe sayd that hee was free &c. and it was found that hee was free, but that hee was neuer seised of such estate that hee myght be disseised, the playntiffe sayd we are at issue out of the poynt of assise that is founde for vs, therefore they neede not to enquire but of the dammages, and after it was awarded that he should take no thing by this writ. An. 31. E. 3. Lib. Ass.

And note ye, that assise may bee taken in iij. manners, that is to say, at large, in the poynt of assise, out of the point of assise, and right of dammages. Assise at large is, when an infant bringeth Assise, and the deeде of hys auncestour is pleaded, then the Assise shalbee taken to enquire at large, that is to say, if hys auncestour was of full age, of good memorie, and out of pryson, when hee made the deeде. Assise in point of assise is, when the tenaunt pleadeth no wzonge, nor no disseisin. Assise out of point is, when the tenant pleadeth a fozeine release, or fozeine matter tryable in another Countie, then the Judges shall put the Recorde in the common place to trie thys fozeine plee, and when that is tried, they shal send againe the

the *Mise*. And in right of damages is, when the tenant confelleth a putting out, and demurreth in law, the which matter is iudged against him, now the *Mise* shalbee taken in right of the damages.

Note ye, if the Gardeyne of an infant take a feoffement of the infant beeyng in his warde, the infant shall haue an *Mise*, and the gardeyne shalbee aiudged a disseisor, and committed to pryson if it bee founde. *An.* 8. *E.* 2.

If my tenant be attainted of felonie, and the king graunt the yeare and the day to a straunger, if the straunger bee disseised, I shall haue *Mise* by al the Court.

And note ye, that seisin of fealtie is no seisin of the rent whereby hee may of that haue *Mise*.

If the tenant pleade a plee in barre, & the plaintife make title, and ~~trouers~~ the barre, though the title of the plaintife be false, yet the tenant shall not haue aduantage to take the *Mise* by on the title, but he shalbe charged to maintaine his barre: Otherwise is, where if the plaintife make to him a title, & aunswere not the barre. *H.* 44. *E.* 2.

A man may be tenaunt of the rent by hys disseisine, as if he leupe the rent of my tenants by cohercion of distresse, but if the tenaunt pay to him the rent of his good wil, that shall not be intended the rent that I ought to haue, but another rent, for by such payment without other thinges doing, I shall haue no *Mise*.

Natura

If rent discend to me after the death of my father, and afoze the day of payment of the rent, the tenaunt putteth me in seisin of the rent by an Oxe, this seisin is not sufficient whereof I may haue Assise, but if he pay to me a peny as parcel of my rent, notwithstanding that it be afoze the day of payment of this possession I shall haue assise, but if I recouer rent, and afoze the day of payment, the Shirife put me in possession of the rent by an Oxe, of this possession I shall haue Assise. P. 49. C. 3.

¶ A writ of Redifficisin.

REX Vic' salutem. Monstrauit nobis A. quod cum Ripse in curia nostra corā Iusticiari nostris tantum &c. vel coram dilectis & fidelibus nostris R. & E. Iustic' nostris ad assisas in Com' L. capiend' assign', per breue nostrum recuperauit seisinam suam versus B. de x. acris terri cum pertiñ in I. p. recogn' Ass. noue disseis. ibi inter præfatos A. & B. capē, præfāt B. ipsum A. de eadem terra iniuste disseisiuit. Et ideo tibi præcipimus, qd' assumptē tecū custod' placitorū Coronæ nostræ, & xij. tam Milit' quā alijs liberis & legal' hominibus de comitatu tuo, tam de illis qui in prima iurata fuer', quā in propria persona tua accedas ad præd' terri, & per eorum sacramentum diligentem facias inde inquisic'. Et si ipsum A. per præd' B. de præd' terri interim iniuste disseisitum inueneris, tūc ipsum B. capi, & in prisona nostra saluo custod' fac', ita quod ā prisona illa nullo modo delibetur sine mandato nostro speciali, & ipsum A. de præd' terra reseisire, & dampna sua in duplum quē occasione illius reddiss, sustinuit, per sacrm præd'

xij. taxari de terris et catallis præd' B. in balliua tua sine dilatione fieri, & eundem A. haber' fac' iuxta formam statuti VV. de huiusmodi redditi. prouis. Et scire fac' præfat' B. quod inquisitioni illi faciend' interfit si sibi videret expedire. Teste &c.

This writ lyeth in case where a man is disseised, and he hath recovered by Assise, and is put in possession by the Shyrife, and after that, is disseised by the same disseisour, he shall haue this writ of Redisseisin agaynst him, & that is geuen by the statut of Merton cap. 3. which begynneth, Si quis dist. &c. And by the statut of Marleb. cap. 8. which begynneth, Illa autem qui prosterata disseisin &c. where it is said such persons are not repleuisable.

If a man recouer in assise against a woman sole, and after she put hym out, and take a husband, the writ of Reddisseisin shall not suppose that he hath recovered against the husband and the wife, but the writ of Reddisseisin shall suppose the Reddisseisin to be made by the wife when she was sole, and the husband shalbe named because of the marriage. An 9. H. 4.

Note ye, that vpon a recovery in Assise of fresh force, a man shall not haue a writ of Reddisseisin. An. 14. E. 2.

But it is thought that a man shall haue a Reddisseisin & post disseisin in London, where he recovereth by a writ of Right, & maketh his protestation in nature of Assise, for there are Coroners. An. 14. E. 3.

Note ye, that if I recouer an acre of lande in D. by assise, to which there is a comon in

D. iij.

S.

Natura

S. belonging, if **I.** be disseised of the com-
mon, **I.** shall haue a Reddisseisin. **M. 8. C. 3.**

¶ A writ de Post disseisin.

REX Vic' salutem. Monstrauit nobis **A.** quod cum
ipse in curia nostra coram dilectis & fidelibus
nostris **T.** & socijs suis Iusticiariis nostris de banco a-
pud **VV.** recuperasset seisinam suam versus **S.** de x.
acris terre cum pertineñ in **I.** per considerationem
eiusdem cur', idem **B.** præfat' **A.** de præd' fra post-
modum iniuste disseis. Et ideo vt supra, sed non di-
catur tam de illis qui in prima iurata fuerunt, quam
de alijs vsq; interim, postmodum iniuste &c. vt
supra, semper dicatur postdisseisina in loco dissei-
sinæ, vt supra. Teste &c.

This writ lyeth as is ordayned by the sta-
tut of Merton, vpon a recouerie in Assise
of Nouel disseisin, and by the statut of West-
minster 2. cap. 26. which begynneth. In bre-
uius de Redd' &c. that a man that hath re-
couered by assise of Mortdauncestor, or by
other Iurie, or by default, or by reddicion,
or by any maner enquest. And if he bee put
out of the same tenements by the same per-
son against whom he hath recouered, then
he shall haue a post disseisin and not a Red-
disseisin. Also if these tenaunts by Elegit,
statute Marchant, statute of the Staple be
disseised, they shall haue a writ of Reddis-
seisin: But in case that a man may disseise,
and after **I.** recouer by Assise, and am put in
possession, and the same disseisour with ano-
ther straunger put me out of the same lande,
in this case **I.** shall not haue a writ of Red-
disseisin,

disseisin, for there is a tenant of parcel, that was not party to the assise, therefore I must haue a new Assise. And in case that the disseisour be disseised, and a writ was brought against the ij. disseisor, he shal answer of þ damages, for his owne possession: But the statute of Glouc cap. 1. speaketh not but in case where the disseisour hath sold.

And note ye, when a man arraigneth assise of Nouel disseisin of a rent charge, it is conuenient that all the tenants of the tene-ments charged be named in the assise, and al the land charged put in view, notwithstanding that hee was disseised but by one tenant, but otherwise is of rent seruice.

And note ye, that all assises of Nouel disseisin, & Mortdauncestour, that goeth into the Countie, are retournable in the common bank, and if the kinges Bench be in another countie then the common bank is, then all the assises of Nouel disseisin shalbe afore the the Iustices of the bank, and afore the king shalbe put a certayne day, as vsque ad diem Iunij in xv. &c. but in the Mortdauncestour common day may a man haue, as in other places, but in Assise of Nouel disseisin afore the Iustices, and afore the kynge, a man may put a day out of the Terme, as vsque in diem Iouis post festum Sanctæ Lucie, and geue daye of fower dayes afore the kinge, and that wyl the Statute Articuli super chartas capitulo 15. And in Assise of Nouel disseisin a man ought not bouche no man if he bee not named in the writ, or bee

Natura

present in Court when he is bouched, but in a writte of Mortdauncester a man may bouch at large.

If a man recouer lande by Scire facias by default, if hee be disseised by the same man afterward, he shall haue a post disseisin, aswell as if it were in a Præcipe quod reddat. C. 15. B. 7.

If a man recouer lande in value, and after is put out by the boucher, the tenant shall haue a Post disseisin, vt patet per Registrum. An. 5. R. 2.

¶ A writ de Nocumento.

REX Vic' salutem. Questus est nobis A. quod B. iniusté et sine iudicio pstrauit vel leuauit quoddam fossatum in N. ad nocumentum teneñti sui in eadem villa, vt non potest transfr̄ &c. Et ideo tibi præ', quod si præd' A. fecerit te securum &c. fac' xij. liberos & legales homines de vicinē illo vider' fossatum illud vel stagnum illud & teñt, et nomina eorum imbreuiari. Et sum illos per bonos &c. qđ sint coram Iusticiar' nostris ad primam assisam cum in partes illas venerint parat' face' recogn, et poñ per vadium et saluos plegios prædictum B. vel Balliuū suū, si ipse inuentus non fuerit, qđ tunc sit ibi aud' illam recogn. Et habeas ibi sum nomina pleg. Et hoc breue. Teste &c.

This writ lyeth where a man leuyeth or maketh a house, and wall, or gutter in his lande, or any such like to the nuisance of the freeholde of his neighbor, then hee to whom the nuisance hath bene made, shal haue the said writ. And also if hee that hath made the

the

the nufance fell the land, whereof the nufance was made to a ftraunger, then thallife fhall be brought againft both .s. againft hym that made the nufance, and againft hym to whom the lande is felde, and that is geuen by the ftatute of Weftm 2. cap. 24. which be- ginneeth. In quibus cafibus &c. before whych ftatute allife of Nufance did not lye, but onely againft hym that made the nufance. And the proces is as in Allife of Nouel diffeifin.

And note ye, that if the nufance be made in one Countie, and the tenement is in another Countie, then the writ fhall be brought in that countie where the nufance was made. And alfo if the Allife of Nouel diffeifin be arraigned in one Countie, and of the fame tenementes another allife is arraigned in another Countie, a man can pleade nothing but fuffer both allifes to paffe, and if they fay bothe that thefe tenementes are in one Countie, then it is wel, and if they barie fo that the one fay, that the tenements are in one countie, and the other fay that they are in another countie, then he ought to caufe al the Allifes to come afore the kinge, and that was iudged Anno 9. E. 3. betwixt Richard Clyfforde and Henry Fitz Hugh.

And note ye, that in many cafes allifes of Nufance lyeth, as it appeareth by thefe two Verfes.

Fons, stagna, fepsq; via, diuerfus curfus aquarum,
poſcunt aſſiſam, mercatum, feria, bancum.

Natura

¶ A writ de paruo Nocumento.

Rex Vic' salutem. Questus est nobis A. quod B. iniuste et sine iudicio leuauit quandam fabricam in N. ad nocumentum liberi tenementi sui in eadem villa, post primam transfr &c. Et ideo tibi prae, quod loquelam suam audias, & postea eum inde iuste deduc' facias. Ne amplius &c, pro defectu iustitiae. Teste &c.

This writ lyeth where a Mill or such like is leuyed to the nufance of his neyghboz, he to whom the nufance is made shall haue the said writ, and it is bycontiel, and pledable in the Countie. And this writ may bee remouable out of the countie into the common bank at the suit of the plaintife wythout cause in the writ, and at the suit of the tenant with cause, as in the pone de auerijis repleg'. And hereof may be made a writ of Execution of iudgement if neede be, but if hee that made the nufance dye afore the Writse purchased, then he to whom the nufance was made, or his heire shall haue a writ of Quod permittat against the heire of him that made the nufance. And so a Quod permittat lyeth al times in place of a writ of Entre grounded vpon disseisin, or abatement, after the death of him that made the nufance.

And note ye, that there be other writs that are called little writts of disseisin that are bycontiel, and pledable in the Countie afore the Shirife, that are De domo iniuste leuata vel prostrata & consimilibus, vt patet per Registrum, & what maner of nufance are pledable in the countie it appeareth by these verses.

Fab,

Fab, fur, porta, domus, vir, gur, mole, murus, ouile,
Et pons, tradantur hęc vicecomitibus.

Two coparceners are seised of a meadow and a Myll, and they haue a way from the myll vnto the water of the same myll, ouer the meadow, & they make particion, so that the mill is allotted to the one coparcener, & the meadow to the other, & vpon the particion it is agreed, that he that hath the myll shal haue the way to the myll ouer the meadow, if the other to whom the meadow is allotted leuye a ditch in the meadow where- by he is put out of his way, he shal haue assise, for he may not haue the profit of the mill wout the way, wherefore thaccord is good without wryting, as rent reserued vpon a particion without wryting &c. B. 21. C. 3.

Note ye, that if a man ought to repaire a brydge, ouer which I haue a way belonging to my manor of Dale, and he that ought to repaire y brydge make no reparation where- by I cannot haue my way, I shal haue an action vpon my case, and not assise, for where a man ought to make a thing and makes it not, I of his laches shal not haue assise, but where a man maketh a thing by mainor, or leuying or estopping, in such case I shal haue Assise &c. if a man bee holden to scour a ditch, that the water may haue course, and he make it not, whereby my meadow is surrounded, I shal haue a writ of Trespas, but if hee stop that, that is vnclensed, I shal haue Assise. C. 11. B. 4.

Natura

¶ A writ de Attincta is such.

REX Vice salutem. Si A fecerit &c. tunc sum &c. **R**xxiiij. legales homines de vicini de N. quod sint coram Iusticiarijs nostris apud w. tali die, vel ad primam assisam &c. parati sacro recognoscere si iur' per quos quedam inquisic' nuper cap' fuit coram Iustic' nostris apud VV. per breue nostrum &c. qd fuit inter A. petentem & B. tenent', falsum fecerunt sacramentum sicut idem A. grauiter nobis conquerens monstrauit. Et interim diligenter inquiras qui fuer' iuratores, per quos inquisitio capta fuit. Et eos habeas coram prefat' Iusticia' ad prefatum terminum, vel ad prefatam assisam. Et sum per bonos summonit prefat' B. quod tunc sit ibi auditur' illam recogn'. Et habeas ibi sum nomina predictorum hominum, & hoc breue. Teste &c.

This writ lyeth where an Enquest hath made a false verdict whereof they be attainted by thys writ they shall haue such paine. s. their meadowes shalbe eyed, and their houses pulled downe, and their woodes destroyed, and all their landes and goods forfeayted to the king, but if the writ passe against him that bringeth the writ he shalbe imprisoned and greuously ransomed at the kinges pleasure. And the proces is against the partie Summons and resummons. And against the partie Jurors, Venire facias, and a distress. And against the graunde Jurours, Summons, Habeas corpora, and distress. And in how many maners a man may haue Attaint, looke the statute of Westm 1. cap. 37. which beginneth. Pur ceo que ascun gents &c. that a man shal haue Attaint in ple of land,

or of a thing that toucheth freeholde. And now by the new Statut of Añ 1. E. 3. cap. 6. is ordeyned, that Attaint shalbe graunted in a writ of Trespas, aswell vpon the damages if they passe xl. s. as vpon the principal. And also the Statut made Añ 1. E. 3. cap. 7. that Attaint is aswell in plee personal as in plee reall, and to be graunted to poore men without fine, and the Chaunceloz hath power to graunt this writ without sueing to þe king. And that the Justices let not in no case of attaint delay to take the attaint for the damages not paid. And by the Statut made at Westm, Añ 1. E. 3. cap. 7. in the ende, a man shall haue a writ of Attaint in plee of Trespas moved afore Justices that are of Record without writ, if the damages iudged passe xl. s. And after by the statute made in the time of the same king, Añ 28. cap. 8. a writ of Attaint shalbe graunted aswell vpon a bill of Trespas, as vpon a writ of Trespas, hauing no regarde to the quantitie of the dammages. And also the attaint shalbe graunted to poore men that will sweare that they haue nothing whereof they may make fine, sauing their countenance, without fine, as to other by a reasonable fine. And by the Statute of Añ 24. E. 3. cap. 7. And also by the Statut of Añ 9. R. 2. cap. 3. is geuen, that he in the reuerſion lyuing his tenant for terme of lyfe, shall haue Attaint.

Notze, þa writ of Entre was brought in Sussex, and the tenant pleaded the dedde of the auncestour of the plaintife made in
 Mon

Natura

London, which was denyed, and found of the plaintife in London, and vpon that the tenant brought Attaint in London to summon xiiij. and to attach these xij. and another writ to the Shirife of Suffer to attach the partie, where the land was, and the writ that was directed to the Shirifes of London was challenged for that, that it is not comprised in the writ that the partie shalbe attached & not allowable, for in a new case a new remedie shalbe prouided. M. 18. C. 2.

Attaint was brought agaynst J. S. as sonne and heire, vpon a false verdict geuen betwixt the plaintife and the father of the said J. S. in a Precipe quod reddat, & the writ was challenged, for that, that it is not proued by the writ that he is tenant, & for that, that euery attaint in him selfe is summons, the writ ought to haue bene, Sum one such, and not allowed, for the writ shalbe brought against the father without any summons against him, for that, that the law intendeth that the tenancy continueth in him, and this action is formed vpon the first recorde, and by the same reason it shalbe intended, that it descended to the heire, and that he is tenant, wherefore answer. M. 31. H. 6.

One that was vouched brought Attaint against those that passed vpon a deede denied, and the writ will, that one J. S. tenaunt vouched to warrant, and the writ was abated, for that, that the writ suppoeth not that the vouch. hath a warrant of the tenant by expresse wordes, yet it is supposed by these wordes,

wordes, placitando protulit that he hath a warrant, but that, that it should be put in the writ by expresse wordes may not be maintained by supposell. D. 22. E. 3.

Note ye, that one may haue Attaint, a writ of Error, and Disceipt afore execution, for the mischief that he will not sue execution vntil such time that the petit Jurie or summoners and beyors be dead, and then to sue execution when he may not haue the actions, and of this mischief he shal haue them afore execution. D. 21. E. 3.

If a writ be awarded to the Shirife by default to enquire of wast, it is saide that the parties shal haue their challenge afore the Shirife, & also Attaint, if the Jurie make a false verdict, qd' non credo, Quare. An 10. D. 4.

Note ye, that no man shal haue Attaint in appeale of Mayhem, nor in any other appeale of felony, or of the death of a man.

Note ye, that if a man be indicted of trespass, and found gyltie by another enquest, hee shall not haue Attaint, for that, that xxiiij. hath founde hym gyltie, and both the verdictes agree.

In trespass against two, the one appeareth and is founde gyltie by one enquest, & the other by another enquest, he that was found gyltie by the later enquest shal haue Attaint, notwithstanding that he is a stranger to that, for that, that he is in damage by that, for the first enquest shall take the damages and not the second enquest, & of those damages he shal haue Attaint. D. 44. E. 2.

Attaint

Natura

Attaint was brought, and he assigned the false verdict to be in ij. thinges, where as it appeareth to the Court that he hath no cause of action, for the one, and by the aduise of the Justices it was holden, that the party shalbe barred of that, and the remnant to stand in his force. C. 26. B. 6.

The iudgement in Attaint is, when it is founde for the plaintife, that the verdict is false, the iudgement reherseth the points &c. Wee aswarde that the plaintife shall haue againe his lande and those damages that hee lost in the Assise, and the profits had in the meane time, and that the tenant shalbe taken and the petit Jury shal loose free law, & their goodes forfeited, and their tenementes dystroyed, and all their landes and tenements seysed, and their meadowes eyzed, and their woodes dystroyed, their wyues & infants of their houses put out, and that they shalbe taken. M. 11. B. 4.

¶ A writ de Certificatione nouæ disseisine.

Rex Vic' salutem. Quia super quibusdam articulis nouæ disseisine contingent, quæ inter A. & I. sum fuit & cap' apud I. per breue nostrum, coram dilectis et fidelibus nostris H. & R. de tenemento in I. quedam subsunt dubitationes sicut ex querela ipsius I. accepimus, constituimus præfatos H. & R. Iusticia' nostros vna cum hijs, quos sibi associamus ad certificationem super articulis prædictis capiend'. Et ideo tibi præc', qd' ad certos diē & locum quos eidē H. et R. tibi scire fac' iuratores illius assiste coram eis Venire fac' ad certificand' sup articulo' prædict.

Et

Et sum per bonos sum prædict A. quod tunc sit ibi
auditus illam certific', Et habeas ibi sum nomina
iura & hoc breue &c.

This writ lyeth where assise is brought a-
gainst a man and he answered by bailye,
and the baylye commeth into the Court ex-
cusing the absence of his maister, and pleade
in abatement of the writ or saith, no wrong,
ne disseisin, for he may not plede any release,
or writting in barre of action, then if the tenat
loose in his absence by assise, if he hath any re-
lease or other writting that wil make for him
he may come afore the same Justices, afore
whom the assise was taken and shewe hys
right by release, or other writting, and if the
Justices may see that the plaintife in the as-
sise might haue bene excluded of assise, if the
said release or writting had ben shewed afore
the iudgement in the Assise geuen, then the
same Justices shal send a scire facias to the Shi-
rife of the County where the assise was ar-
raigned, that he swarne the party that first re-
couered to bee afore them at a certaine day.
And also that he shall cause the first Jurors
to come that swore first swozne in assise, and
then if it may be founde by verdict of the Ju-
rors or by inrolment, that the said writtings
are true, that he that purchaseth the said as-
sise shal yelde double damages, as it appeareth
by the statute of Westm 2. cap. 25. which be-
ginneeth: Quia non est aliud breue &c. And in
case that the Justices or any of them afore
whom the said Assise was first taken dye or
be remoued, then the party if he haue any re-

lease, as afoze is sayd may haue the said certification, which shalbe patent directed to the new Justices reherſing al doubts touching the assise that was taken afoze the first Justices commaunding them that they take the sayd certification at a certaine day & place, & ouer that a Preceipe directed to the shirife of the same county, that hee sommon the same party that first recovered. And also that hee cause the first Juroz of the assise to come afoze the said newe Justices at a certaine day & place, to certify the said Justices of the said doubts as it appeareth by the Register. And also this certification may be taken in the kings benche, or in the common place, & then no patent shalbe made as is in assise of No- uel dist. by which certification, aswel in the one case as in the other, the iudgement shalbe reuerſed, & in case that the party be swarned, and come not at the day assigned, hee shall looſe the land by default. And if he come at þ scire facias, the plee shal passe betwixt them, and if he that recovered by assise can nothing say against the release, then the tenant that lost by the assise shal recover. And the proces is against the Juroz a venire facias, Habeas corpora, and distresse infinite, but this writ lyeth, but where it may be founde by recozde, & by the rolles, then thynquest that passeth in assise speake nothing, nor made mention of þ release or other wryting in their verdict, but if thenquest make mention of the release or of their wryting, & they geue false verdicte notwithstanding the release, then the party
against

against whom they passed may haue attaint
 against the Jurours. And if the Iustices
 geue false iudgement where these Jurours
 made mētion of the release, and putteth their
 verdict vpon the iudgement of the Iustices,
 and that may bee founde, then the sayde
 partye may haue a writ of Error and the
 iudgement shalbe reuersed. And if it be found
 that the release is good, the party shall reco-
 uer, and if not, the other shall holde in peace,
 & that is geuen by the statute of West. 3. cap.
 25. which beginneth: Quia non est aliquod bre-
 ue &c. And in case that the assise passe in ab-
 sence of the party, and after the party com-
 meth, & shewe to the Iustices any release as
 is aforesaid, and the Iustices delay to do af-
 ter the said statute, then the party may haue
 a writ directed to the same Iustices in which
 writ the said statute shalbe reherfed, cōmaū-
 ding them y^e vpon the sight of the said writ
 that they make full Iustice to the foresayde
 partye, as it appeareth by the Register. And
 this writ in this case shalbe in place of a cer-
 tification. And note ye that by y^e same statut
 if the party defendand in assise of Nouel dis-
 seisin alledge in delay of the party plaintife,
 that assise another tyme passed betwixt the
 same parties of the same lands, or y^e the sayd
 party plaintif was nōsuit in a writ of higher
 nature hanging betwixt thē of the same te-
 tenement or that the said plaintife was non-
 suit in such like writ, & profereth to verify y^e
 of recorde, in this case if the same party faile
 at his day of the recorde, he shalbe iudged as

Natura

de Meisour, without triall of the Assise, and the Assise taken in the ryght of the damma=ges &c.

If a recoverie be in assise, and after the tenant in the Assise sue a certification vpon a deede, and a Scire facias against the party that recovered to bee at a certaine day &c. and a venire facias in the same writ against the xij. Iurozs that were swozne in the Assise, and the shirife returned that two of the Iurozs are dead, quare if he shall haue a certification or not, for that, by the statute is, that it shalbe tried by the first Iurozs, but not by all the Iurozs, and it was saide that there was a certification at the common lawe afore the iudgement geuen: if the matter bee vpon a deede bearing date in a forein countie, it shall be tried by other, and not by the first iurozs. An. 12. B. 4.

¶ A writ de Assisa mortis antecessoris.

Rex vic' salutē. Si A. fecerit te &c. tunc sum &c. xij. liberos & legales homines de vicin de A. quod sit coram &c. tali die &c. parati sacramento recognoscere, si B. sen pater predicti A. fuit seifitus in dominico suo, vt de feodo de vno mes. cum pertinen in N. die quo obiit. Et si obiit post coronationem domini H fil regis &c. Et si idem A. propinquior heres eius sit. Et interim predictum mesuag. videant & nomina eorum in breuiar facias, & sumam per bonos sum predictum B. qui mes. predicti tenet quod tunc sit ibi aud' illam recogn., & habeas ibi sum., et hoc breue. Teste &c.

This

This writ lyeth where my father, mother, brother, sister, uncle, or aunt died seyled of landes or tenementes, or of rent, that they haue in fee simple, and a straunger abate, then I that am next heire shall haue this writ against the abator, or against whosoever that is in possession, after the death of mine ancestor. And the proces is in this writ as it is in a Iuris vtrum. And note ye that if an Infant bee in warde of his lord, and after hee cometh at his ful age, the lord wil not yelde to him his lād wout ploe, then y^e Infāt shall haue this writ & that is geuen by the statut of Marl' cap. 16. which beginneth: Si heres aliquis &c. but if he be of ful age after the death of his aūcestor, & is in his heritage, and knownen for heire, & the lord enter vpo the heire, and hold him out, then he shall haue the foresaid writ, & recover damages, as in Aulse of Nouel disseisin. And note ye: that by the statute of Glof cap. 6. It is ordained, that if a man dye seised of certain lands or tenements in fee simple, and hath many heires, whereof one is sonne, daughter, brother, sister, nefe, we or nece, and the other bee in no more longe degree, if a straunger abate, all those heires together shal haue the foresaid writ but if y^e heire be not one of them aboue named, they are put to their writ of Ayle, or Cognage as their case lyeth. And note ye: that if an infant purchase a writ of Mortdauncestor, he ought to find no surety, & for that he shal not say in this writ si talis fecerit securus &c. And note ye: that the statute of West. 1. cap. 22. which

Natura

beginneth: Des heires males &c. that if any lord withhold these heres females vntill xvi. yere vnmарped, because of coueteousnes of the land, then the heire may recouer her heritage by the foresaid writ of Mortdauncestoz. And note ye: that a man may haue a certification & association to the said writ.

Note ye: that a writ of Mortdauncestoz was of a common forme, In dominico suo vt de feodo die quo obiit: and the tenaunt said that his auncestoz of whose death hee bringeth this writ went ouer the Sea towards saint James: the which auncestoz is not yet come againe, therefore the writ shal say: Die quo iter &c. wherefore the writ was abated, and the demaundant would haue auerred the death of his auncestoz, & could not be receiued, for that, that another writ is geuen in the case. H. 16. C. 3.

The writ of Mortd was Summ xij. &c. de visn vill de Dale &c. parati &c. si obiit seifitus de octo pedibus in longitudine, & vj. in latitudine, & duabus partibus vnius mesuag. et medietate pertin vnius mesuag. in villa de Dale &c. interim mes. terras et tenementa videant. And the writ was challenged: for that is was De octo pedibus &c. for it ought to be of a place that containeth so much, so the principal demaunde shal be of the place, and not of so many footes, & also the writ ought to bee, that these twelue of the Assise ought to bee of the same benew where the demaunde is made, and now is the one of the benew of the Towsne of Dale, to somon the Iuroys, and the seconde is

is in the towne of Dale: & also in þ̄ demaund, the lande is first in demaund, & after the mesuage &c. & in the clause to make the benefewe the mesuage is first named, but the exception was not allowed as the first challenge, for a man shall not haue a writ to demaunde a place that is not certeine, & as to the seconde point the fourme of the writ is such & may not be intended diuers townes, & as to the third point, that is whole in þ̄ demaund shall be first named, and then the halves, but when the benefewe ought to be made and the whole mesuage to be put in view, þ̄ forme is to put the mesuage afore þ̄ land, & a writ of another forme may he not haue, wherefore the writ was awarded good. H. 16. E. 3.

In assise of Mortdauncestour, if the tenant pleade a feoffment of the auncestour of the demaundant in barre, he ought to traaverse the dying seysed, but if he pleade a recovery, or a fine leuyed by the auncestor, hee ought not traaverse the dying seysed, for that, that the demaundant is stopped to say against the recorde that he died seysed without shewing howe after the recoverye H. 7. E. 3.

In assise of Mortd̄ the tenant pleaded a recovery in assise had against þ̄ plaintiff selfe, and for that, þ̄ this disproues the estate that the plaintife hath after the death of his auncestor, the opinion of the court was that it is no barre. H. 27. E. 3.

A. was indicted of felony, & one D. as accessory, & vpon the Cape the shirife returned
D. iiij. that

Natura

that *A.* nō potest inueniri, and that the said *D.* was taken, and he pleaded not guilty, and he was found guilty, and hanged, & the lord by Escheat entred, & after the said *A.* was take & brought to the barre, and after was found not guilty, & the heire of the sayd *D.* brought assise of Mortdaunceſſor against the lord by Escheat, & shewed al this matter, and after was awarded that the said heire should recover seisin of the land: for that: that if the said *D.* were on lyue, that he shoulde be acquitted by the acquittal of the said *A.* and that he can be no accessory of felony when there is none. *M. 33. E. 1.*

¶ A writ de Auo is such.

Rex vicecom̄ salutem . Precip̄ *A.* quod iuste &c. reddat *B.* vnum mes. cum pertinen̄ in *N.* et aduocationem ecclesiæ eiusdem villæ, de quibus *C.* auus præd̄ *B.* cuius heres ipse est fuit seiscitus in dominico suo, vt de feodo die quo obiit, vt dic'. Et nisi fecerit et præd̄ *B.* fec. te secur̄ &c. tunc sum̄ &c. Et habeas &c. Teste &c.

This writ lyeth where my graundfather dyed seysed of lande, tenement, or rent in fee simple, and a straunger doth abate, then I shall haue against him this writ, or against his heire, or his alienee, or against whosoever that commeth to the said lands and tenements in what manner soeuer he is in. And in the same maner lyeth a writ of Cosnage, that is to say, where my graundfathers father, or mye great graundiathers father, or other Cousin, and so to the ix. degree that died seysed in fee simple, & a straunger enter, I shall

shal haue a writ of Cosinage, and not a writ of Ayle: for that: y it passeth the writ of Ayle. And note ye, that a writ of Cosinage lyethe in the discent lineal. And it is to know that the lineall discent is from the father to the sonne, but if the lande discent from the sonne to the vncler sonne vpon abatement, he shal haue a writ of Cosinage. And note ye: that assise of nouel disseisin, Mortdauncestoz, Ayle, Cosinage and Nuper obiit, are onely writs of possession, and not myxt with the right, but assise of Nouel disseisin is of his owne possession. And the other are of the possession of the auncestoz to whom he is next heire. And note ye, that a mā shal recouer no damages in the said writs but in those that dammages are geuen by statute, or by y cōmon law, & of damages looke in the statute of Gloſ cap. 1. And y proces in this writ is, Homōs, Grād Cape, & petit cape &c.

A general writ of Ayle was brought, & it was challenged, for that, that his auncestoz died not in England, but tooke his iourney toward the holy land, & came not again, in which case he shal haue a like writ, as hee should haue in assise of Mortdauncestoz, but y exception was not allowed, for it hath not ben seene in a writ of Ayle. M. 13. C. 2.

The writ of Ayle was precipe &c. quod reddat vnam bouatam terre et vnam bouatam Marisci, and the writ was abated, for that, that the organge is alwaies of a thing that lieth in gainoz. M. 13. C. 3.

In a writ of Ayle, a release was pleaded
of

Natura

of the same graūdfather with a Warrantye, & the opinion of the court was, that y^e was no barre, except he say without that, that he died seised, & so it was pleaded. H. 13. H. 4.

¶ A writ de Nuper obiit.

REX vic' salutē. Si A. fecerit &c. tunc sum' &c. B. q^d sit coram Iustic' n^{ost}ris &c. tali die ostens. quare deforc' p^{re}fat' A. rationabilem partem suam, que ei cōtingit de heredit', q^{uod} fuit I. de N. p^{re}is sui, fratris, sororis, aui, auia, auunculi, amitæ, consanguinei p^{re}ad' A. & B. cuius heredes ipsi sunt. Et qui nuper obiit, ut dic'. Et habeas &c. Teste &c.

This writ lyeth where a man hath many heires that shal equally enherite, as many daughters or sonnes (if it be in Kent) and died seised of certaine lands or tenements holden in fee simple, if any of these coheires enter into the lande and holde these other out, then these that are holden out shall haue the sayd writ against the coheire that is in. And the proces is, as in a writ of Ayle. And note ye, that a writ of Nuper obiit, & a writ of right de rationabili parte, lyeth alwayes betweene priues of blood, but a writ of Mortdaūceter, Cosnage, and a writ of Ayle, lieth alwayes against a straunger.

Note ye, if any be deforced of their reasonable parte, it behoueth to be brought by all those, that are deforced, & not by one of the, for albeit, y^e these other will not sue for their reasonable part, she shal bring this writ and all

all their names that are deforced, and this writte shalbe retournable, and if they will not sue, hee that will, shall haue a writ called summonias ad sequendum simul, & if they come not at this writ, the other that will sue shal be receiued to sue, and to pleade against his person that is deforsour in right of his part, & shal haue iudgement and execution for her portion. Note ye, þ this writ shalbe brought by coheire against coheire, & not otherwyle: for if any other auncestour enter, and clayme by the same discent that I claime by, I shall not recouer against him by the sayde writte nor other writte, but enter vpon him. And if he put me out, I shall haue assise of Nouel disseisin, or a writt of Ryght, for assise of Mortdauncestour I may not haue against my coun that claimeth by the same discent þ I claime by, for a writ of Mortdauncestour lyeth neuer betwixt priuies of blood. And þ writ of Ryght that is brought against the coun that claymeth vt supra, shall not bee determined as other writs of Ryght, that is to say, by battaile or by graund assise, but by enquest that is in the place of the graund assise: for that, that the right is not to be tryed, but only the priuity of blood, þ is to say, which of them are moze neere of blood to the auncestour that was last seised afore that they are passed the third degre where they ought to claime by one discent, but battail lyeth not betwixt sisters, where one is seoffed by char-
tour, & þ other by discent, as it appeareth in

Magna

Natura

Magna Carta de assisa eligenda. Note ye, if any stranger abate after the death of any common auncestor al these coheires together shal haue their recouery against the stranger as one sole heire shal haue by a writ of Mortdauncestoz.

In a Nuper obiit after that, that the tenant hath defended the wordes of the court, & the right of the demandant, as a free man, he alledged that he was villein, wherby the writ abated. And note ye, when a writ is abated by exception of villenage, the writ lieth not against the lord of the villein, if the villein be not named, where the lord is not seised by entre, for the lord shal not be tenant against his will. *M. 15. B. 3.*

¶ A writ of Decies tantum.

REx vic' salutem. Si A fec' te secur' &c. tunc pon' &c. C. D. et E. &c. quod sint &c. tali die, ad rñd tam nobis, quam prefat' A. quare cum in parliamento domini E. nuper Regis Angl' progenitoris nostri apud westm' Anno regni sui xxxviii. tenē, inter cetera concordat' existat, quod si aliquis iurator in ass. iuratis vel alijs inquisitionibus capiend' inter nos et partem, vel partem et partem, quicquam capiat per ipsos vel per alios a parte conquerente vel defendente pro veredicto suo dicendo, et super hoc per processum in quodam articulo de Iuratoribus Anno regni sui xxxiii. facit ordinat', conuincať, siue sit ad sectam partis, quæ pro seipso aut pro nobis, aut alterius cuiuscunque personæ prosequi voluerit, soluat quilibet iuratorum prædictorum decies tantum, quantum ipse recepit, et habeat ille, qui facit sectam suam, medietatem,

dietatem et nos aliam. Et quod omnes imbraciatores dicendi vel procurandi tales inquisic' in patria p lucro vel pro proficuo capiend' puniant eod' modo in forma sicut iurat. Et si iurator vel imbraciator ita conuictus non habet, vnd' in forma supradicta satisfaciat, habeat prison vnius anni, prout in ordinat' präd' plenius continetur, präd' C.D. et E. in quadam assisa no. diff. quam idem A. nuper arrain cor dilectis et fidelib' nostris R, S. &c. iustic' nostris ad ass. in com S. capiend' assign' per breue nostr' versus H. et alios in dicto breui contenē, de ten in T. possit pro veredicto suo in hac parte dicendo, ac präd' C.D. et E. imbraciatores eiusdem ass. ad eum dicēd' et procurand' de präfato A. diuersas pecuniarum sumas, et alia dona apud R. ceper' in nostri contempt', et ad ipsius A. graue dampnum. Et cont' formā ordinationis präd'. Et habeas ibi nomina pleg. & hoc breue, Teste &c.

This writ lyeth where Iurozs hath taken golde or siluer of the one partye or of y other to say their verdict, then by this writ they shal pay ten times as much as they dyd receiue, and the party that sueth shall haue the halfe, & y king the other halfe. And those Embraceours that procureth such enquest, and taketh money, they shal be punished in y same maner: or if these Iurozs or Embraceours hath not, whereof they may make gree, they shall haue imprisonment of a yere, but no Justice by his office shall enquire vpon the sayd pointes, but onely at the suyt of the partye, and this recouerye is geuen by the statute de Anno 34. E. 3. cap. 8. And the proces is, Attachment and distresse.

An

Natura

In this action popular, þ defendāt pleded a recovery in another action popular, þ was brought against him by a strāger, and acquittance made to him by a straunger, the plaintife may auerre the acquittance to be made by collusion. *M. 35. B. 6.*

In a Decies tantum, iudgement of the writ was demaunded: for that, þ the writ was, in loquela que fuit inter I. P. demandant & I. C. deforc' per breue nostrum de iudicio de vno mesuagio where he ought to shewe by what writt of iudgement: for that, þ there is diuers writs of iudgement, as a scire fac' to execute a fine, or a iudgment. For if the defendant wil say, þ there is no such recoverye, this issue is not certain, for þ recovery is not alledged certain notwithstanding the writ was awarded good, for that, that he hath put the certainty of the land in the writ. And in such a writ it is sufficient to say, In quadam loquela transgressionis vel debiti, without more, & yet the trespass is not certaine.

Note ye, that in a Decies tantum and other actions grounded vpon the statute þ geneth to þ party þ wil sue the one halfe, & the king þ other, if þ party begin his suit, that þ was populer is made is his proper suit, & the king nor none other person may not release nor dispence, as to his interest, & the acquittall or cōdeimpnatiō of the party is a barre & a discharge against al other people, but before the action begone, þ king may release or pardon, & þ shalbe a barre against al people, & þ was granted by al the court *M. 2. B. 7.*

In

In a Decies tantū against the Embracers, the plaintife ought to shewe how they embraced, & where the embracement was made, & how he took money, & how he said to the Jury, & Danby sayd, though that they take money, & make no Embracery, the action lyeth not against them: but otherwise is of a Jury, if they take money to say their verdict, if the party be nōsuit & action lieth very wel against thē, for that, & when they are swozne they are Judges. C. 37. H. 6.

And note ye: if the Iurozs geue a true verdict notwithstanding that if they take money to say their verdict, they shalbe punished by this writ. H. 21. H. 6.

A writ of Decies tantum was brought against certaine persons for taking of money in assise brought by the plaintif in this writ and his wyfe, and exception was taken for that, that the wyfe was named with her husband in this writ, and the exception was not allowed, for this writ is not given by reason of the tenancy, as attaint or Champerty is, but it is to punishe the Jurye for the taking of the money. C. 40. E. 3.

In a Decies tantum, the verdict was founde against the Iurozs in this action, & iurours were awarded to prison, & it was awarded that & king & the party shall recouer x. times to the value &c. as the statute will &c. And that the king shal haue the one halfe and the party the other halfe, & the iurozs shall profer that, & belongeth to the party in & court, and it was said that the king is principall,
for

Natura

for it is geuen by the statute that he that wil sue for the king, the king hath geuen him advantage to haue the one halfe of that, that shalbe recouered, & it was answered that the king taketh not his suite as of debt due, but by way of a fine, and there where the King ought to take a fine, þ party shalbe alwayes first serued wherefoze they payed the halfe to the plaintife, & founde suerty to the king &c. And then they were deliuered out of the prison. **C. 14. E. 2.**

¶ A writ de quare eiecit infra terminum.

REX vic' salutem. Si A. fecerit &c. tūc sum B. quod sit &c. tali die ostens. quare deforc' prefat' A. de x. acris terr' cum pertiñ in N. quod C. ei demisit ad terminum qui nondum preterijt, infra quem terminum idem C. prefato B. terram illam vendidit: occasione cuius venditionis idem B. prefat' A. de terra præd' eiecit, vt dic'. Et habeas ibi sum &c. Teste &c.

This writ lyeth where a man letteth lāds or tenemēts to another for terme of yeres, within which terme the lessor enfeoffe another in fee, and the feoffee put out the tenant of his terme, then the tenant shall haue this writte against the feoffee, and the proces is Somons, Attachement, and disres, and the proces of outlawrye, but the tenant in thys case may haue a writ of couenant against his lessor if he be sufficient, and haue wryting. And also because that this terme is compared to mouable goodes and chattels, this writ was founde by a discrete man called William

William Hatton, so that by this writ the tenant may recover his terme against the feoffee.

Note ye, that in this writ the lessee shall not recover his terme & damages against the feoffee of his lessor. H. 19. H. 6.

In this writ against R. the plaintife declared that R. him deforced of an acre of land which one A. let to him for terme of yeares, within which terme, such a day &c. A. solde the land to this R. wherefore R. him put out: the defendant said, that he hath nothing of the sale of A. And he was put from that plee: for if it be found that A. had sold it, yet the putting out is not found: wherefore he said that A. hath nothing in demesne, reversion or in service at the time that he solde the land to us &c. and that was not allowed, for he ought to answer to the putting out: wherefore he said that he did not put him out by the reason of the sale of A. &c.

And note in the same plee, if he in the reversion release to the disseisor: this writ of Quare eiecit infra terminum, lyeth against the disseisor, H. 3. E. 1. P. 18. E. 2.

And note ye, that a man shal not have this writ, except that he have possession in deed.

A writ de Eiectione firmæ

REx vic' salutem. Si A. fec' &c. tunc pone &c. B. qd' sit &c. tali die ostens. quare vi et armis in manerium de L. q' C. præfat' A. dimisit ad terminum x. annorum, qui nondum præterijt, intrauit, et bona et catalla eiusd' A. ad valentiam x. li. in eodem manerio

Q. j.

nerio

Natura

nerio inuenta cepit et asport. Et ipsum A. a firma sua p̄d̄ eiecit, et alia enormia ei intulit ad graue dānum ipsius A. et contra pacem nr̄am. Et habeas ibi nomina pleg. Et hoc breue. Teste &c.

This writte lyeth in case where lands or tenements are let to a man for terme of yeares, within which terme a stranger of his owne wrong putteth out the said tenāt, then the sayd fermor shall haue the said writ against the stranger. And the Proces is as in a writ of Trespas: For in this writ shall be supposed that the tenant was putt out with force and armes.

Note ye, that this writ of Eiectione firmæ, is but in the nature of an action of Trespas, & the plaintife shall not recouer his terme that is to come, but damages: but he shall recouer his terme by a writte of Covenant against his lessor. H. 6. B. 1

Note yee, that executors brought a writte of Eiectione firmæ, and declared that their testator was put out, and the writ was maintained. Quod quare. T. 7. H. 4.

A writ de Ingressu ad terminum qui præterijt.

REx vicecom̄ salutē. Præcipe A. qđ iustē &c. redd̄ B. vnum mes. cum p̄tiñ in N. qđ idem A. dimisit ad terminū qui præterijt, vt dic'. Et nisi p̄d̄ B. fecerit te secur̄ &c. tunc sum̄ &c. præfat̄ A. quod sit coram &c. tali die, ostens. quare non fecerit. Et habeas ibi sum̄, et hoc breue. Teste &c.

This writte lieth, where landes or tenements are lett to a man for terme of yeares

yeares, & the tenant holdeth ouer his terme, then the lessor shall not haue this writ, but in place of this writ he may haue assize of novel disseisin, if it be in the first degree, that is to say, if the lessor enter after the terme ended, and the lessee enter againe, & put him out then lyeth the Assize.

And also it lyeth in case where landes or tenements are lett for terme of a strangers life, and the stranger dyeth, and the lessee holdeth ouer his terme: then the lessor shall haue the said writ, or hee may enter (as afoze is said.)

And in case that the tenant for terme of life sell the land & dieth, then he in the reuerſion shall haue the said writ. And in case, if the tenant for terme of life be impleaded, and the land be recouered against him, and dieth, then he in the reuerſion shall haue the said writ in the Post.

And note ye, if the reuerſion of a tenant for terme of life, be graunted to a man: and the tenant for terme of life make feoffement, and dieth, it is said, that he to whom the reuerſion is graunted, nor his heire may not haue the said writ: for that, that he is a purchaser of the reuerſion, & not lessor nor heire to the lessor.

And note ye, that this writ lyeth not for him in the reuerſion after the death of the tenant in dower or by the curtesie: for they are not tenants for life by lease, but by law.

But if tenant for yeares, or the Gardeyne by knightes seruice sell, then the lessor or
 D. ij. the

Natura

the infant shall haue assise of Nouel disseisin, & not this writ, as it appeareth by the Statute of Westmin. ij. chap. 25. Which beginneth, Quia non est aliud breue &c. And the proces is in this writ, and all other writts of Entre, graund Cape and petit Cape.

And note ye, that this writ of Entre may be made in the Per, Cui & Post, as a writt of Entre oz disseisin.

And note ye, that in euerie writ of Entre in the Post, the writ shall say, & unde queritur &c. and in no other writ within the degrees. And also in euerie writ of Entre where a man demandeth of the possession of his ancestoz, he ought to demanda by title, quod clamat esse ius &c. but of his owne possession he shall make no title, except it be where the woman demandeth her heritage oz marriage that was sold by her husband, oz her dower of her first husband sold by the second husband.

A man made a feoffement of his land by Charter, which was deliuered into an indifferent mans hand, vpon such condition, that if he pay xx. li. to the feoffe at such a day, y he may enter into his land, & that the charter to him be redeliuered, if not &c. In this case if y feffoz pay the money at the day assigned and the feoffe hold the land after the day, & obtaine the deede, the feoffoz shall haue the said writ, and after the money to be payed. M. 5. E. 3.

The husband & the wife let landes to one for terme of yeares: the husband dyeth, and the

the lessee held ouer his terme and dyed, after whose death the sonne of the lessee entreth, and the wife bringeth the said writ supposing that he hath no entrie but by his father to whom she let for terme of yeeres that is past: the tenant sayeth, that her husband and shee made lease iointly, and not she onely, &c. and that she might not denie: wherefore the writ abated, and no other maner of writ shee may haue. Anno 8. H. 7. Itin. Canc.

If an Abbot that is Parson imparsoned let land for terme of yeares, that is of the right of his church and dieth, and the lessee hold after his terme, his successor shall not haue the said writ, though that all be annexed to his abathy, & for that, that his successor in such a writ ought to claime his land in the right of his church that he holdeth as parson, in which case he hath no other remedie by the statute, but a Iuris vtrum, wherefore his writ abated. C. 20. E. 3.

A VVrit de Ingressu dum non fuit
compos mentis.

REX vicecomiti salutem. Præcipe A. q̄ iusté et sine
dilatione redd̄ B. vnum mes. cū p̄t̄n̄ in N. quod
clamat esse ius et hæreditatem suam, et qđ idem A.
non habet ingressum nisi per C. patrem prædicti B.
cuius hæres ipse est, qui illud ei dimisit, dum non
fuit compos mentis suæ, vt dicit. Et nisi fecerit &c.
Teste &c.

This writ lieth where a man selleth land
or tenement, when he is out of his mind,
and dieth, then his heire after his death shall
haue

Q. iiij.

Natura

haue this writ. And note ye, that it is sayd that the auncestoz selfe shall not haue this writ, for that, y^e he shall neuer be receiued to disable himselfe. Quare. And note ye, that this writ may be made in the Per, Cui, & Post, as other writs of Entre. And the Proces is Somons, graund Cape & petite Cape.

In this writ it was supposed, that the tenant hath no entrie but by his auncestoz y^e demised to the tenant. The tenant said that he entred by one M. & not by his auncestoz, & that was holden no plee, for he ought to tra- uerse the demise and not the entre: wherfore he said that he entred by M. without y^e that his auncestoz let. C. 18. E. 3.

Note ye, that in this writ of Dum non fuit compos mentis, omission of discent of him that might tend the estate of the partie of the de- maundaunt, shall not abate the writ though that hee seruiue him of whose seisin hee de- maundeth, except that he were seised, or had released or had made felonie, or had issue in full life. H. 12. E. 3.

Note ye, that if one being out of his mind make a feoffement in fee, after his death his heire may enter: for the issue was taken by- on the being out of his mind. C. 12. E. 3. Añ 36. H. 6.

A writ de Ingressu dum fuit
infra ætatem.

R Ex vicec' salutem. Præcipe A. qđ iustè &c. redd
B. q̄ plenæ ætatis est, vt dic', duas acres terræ cum
ptiñ in N. quas id B, ei dimisit dñ infra ætatem fuit,
vt

vt dic'. Et nisi fecerit &c. Teste &c.

This writ lyeth where one being within age selleth his land to him descended or of his owne purchase in fee or for terme of lyfe: when he cometh to his full age, hee or his heire may recouer by this writ: but it is conuenient that he be of full age at the day of his writ purchased: but if the infant let his lād for terme of yeaeres, & after he make a confirmation or releas within age, he shal not haue the said writ when he cometh to his full age, but he may haue in this case assise of Nouel disseisen: for that that the Infant made no lpyerie of seisin.

And note ye, that if land in fee simple bee sold by one being within age, the heire of the seller shall not maintaine the said writ being within age, nor no writ of Entre, except it be within the case of the statute of Westm. ij. chap. 49. which beginneth, Puruiew est ensement que nul &c.

Also if the father being within age sel lād to him descended in tail and dieth, his issue shall haue a Formedon in the descendre, & not the same writ.

And note ye, that if an infant sel his land, he may enter against his owne fessement, & if he be put out, he may haue assise of nouel disseisin, when he cometh to his full age: but when he cometh to his full age, it is conuenient for him to purchase the said writ.

And note ye, that an infant shal recouer in a writ of right, or any other writ according to his case, for such lande that hee hath of

his owne purchase.

And also an infant shall be charged to attorne by a writ that is called *Per quæ seruitia*, vt patet per Iohannem Copland Termino Michaelis, Anno 25. E. 3. But it is said, that he shall not be charged to attorne by a *Quid iuris clamat*. And note ye, that an infant may mayntaine a writ of *Entre* vpon a disseisin made to himselfe.

And note ye, that if two bring a writ of *Right* as heires, the one being within age, the pleë shall tarie vntil her full age.

If a man bring a writ of possession, as a writt of *Wile*, *Cousnage* or assise of *Mortdauncestoz*, and the tenant in anie of these actions say, that his auncestoz was seyled of the same land in his demesne as of fee, after whose death he entereth as sonne and heire, and pray his age, if the troth be so, hee shall haue his age. Otherwise is in assise of nouel *Disseisin*, for that, y the disseisin was his owne wrong. If an infāt bring any writ of possession against one of full age, he shalbe answered, as in a *Formedon* in the discent, if his auncestoz died seised as of fee taile, for that that it is in place of assise of *Mortdauncestoz*: but if ther be pleaded against him in the dede of his auncestoz with assets by discent, the pleë shall tarie, for that, that hee within age may not confesse nor deny the deed of his auncestoz: But if in assise of *Nouel disseisin* the dede of the father of the Infant with a warrant be pleaded against him, the *Wile* shall be awarded for the aduantage

tage of the infant to enquire of the circumstances of the dedde (that is to say) if it be the dedde of the auncestour. And if it so be that the auncestour was of full age, and of good memory, and if the land passed by the dedde or not, and if he be heire to him, & for these matters afore, looke the statute of Glouc Cap. 2. which beginneth: Si infant deins age &c.

Note ye, that an infant shal answer where he is feoffed within age, and euery other case where he is in of his owne Intrusion. The same law is in a writ of Dowry where the heire is vouched to warrantie. The same law is in appeale if he be of the age of xiii. yeares. And note ye, if an infant sel his lande reseruing certeine rent, and at his full age he receiueth the rent, he shal be barred of his action. And note ye, that an infant may not sue an appeale, for that, that he may not suffer imprisonment, and also for that, that he may not make raunsome.

This writ was brought in G. the tenant said that the vsage of that towne is, when a man can count xii. ō. and measure a yarde of cloth, then he is of age to sel his land, of such age was the demandant when he demised: & for that that he put not the age to certeine, so that the demandant might haue answered to that, it was awarded that the demaundant should reconer. D. 13. E. 3.

Note ye, that if the husband & the wife do sel land that he hath in right of the wife both being within age, after the death of the husband, the wife shal haue a Dum fuit infra etatem

Natura

tem, & this is in a writ of waste. *M.* 14. *E.* 3.

If the husband & the wife purchase land jointly, the wife being within age, and the husband, and the wife selleth all the land, the husband dyed, the wife shall recover þ whole by this writ. *M.* 22. *E.* 3.

Note ye, that it is said by Hanke in assise, that an infant of the age of xbiij. yeares may be a disseisor with force and armes, and be imprisoned and answer to the wrong made by him &c. and if the infant plead in barre (as he well may) and a title is made against him, he shall answer to the title, or otherwise the assise shall be taken, & if he reply against the title which is found against him, it shall not be enquired if he haue any other matter against the title, and that is for the wrong that is supposed in his person, but when he is plaintife, and a barre pleaded against him, the court of office shall enquire for the infant: for that, that he knoweth not his best right, and the court hath power to enquire for the tendernes of his age. *E.* 12. *H.* 4.

Note ye, that it was holden by all the iurices, that the circumstances of a deede pleaded against an infant, shall not be enquired in a writ of Centre, nor in no other writ, but where there is a iurie of the first day, for the venire facias is to trie one point certeine. *M.* 9. *Edw.* 4.

A writ de Ingressu super diff. in le quibus.

Rex vic' salutem. Præc' A. quod &c. redd' B. vñ
mes. cum pertiñ in N. quod clamat esse ius &
hered'

hered' suam & de quo idem A. iniuste & sine iudic' disseisuit C. p^{ri}m p^{re}d' B. cuius heres ipse est post p^{ri}m transfr' domini regis &c. In vascon' &c. Vel sic. In quod idem A. non habet ingressum nisi per C. cui A. illud dimisit qui iniuste & sine iudicio disseisuit R. patrem p^{re}d' B. vel antecessorem &c. cuius heres ipse est post p^{ri}m transfretationem &c. vel sic. In quod idem A. non habet ingressum, nisi per dimissionem quam C. inde fecit B. patri &c. p^{re}d' B. cuius heres &c. post primam &c. Et vnde quæritur &c. Teste &c.

This writ lyeth where a man is disseised, and dieth, his heire shal haue the said writ against the same disseisour. And note ye, that this writ is not giuen but only for the heire of the disseisie (in what degree so euer hee be.) And in this writ the demaundant shall make title as heire from the auncestour that was disseised. And note: that this writ shall not tarrie for the nonage, as appeareth by the Statute of Westminster 2. Cap. 46. which beginneth, *Puruieu est ensement &c.* It is said, if the foresaid writ be brought against the issue of the aliene of the disseisour (if he be within age) then the plee shall not tarrie: for that, that it is not within the case of the saide Statute. And the proces is in this writ, and all other writtes of Entre that are plee of lande, and beginneth *Præcipe quod reddat &c.* *Summons*, *graund Cape*, and *petite Cape*. And this writ shall say: *De quo vel de quibus A. dis. B. p^{ri}m &c. cuius heres ipse est.*

Note ye: of what things a man shall haue
the

Natura

the said writ, he shall haue the said writ of a Gorge. *H. 8. C. 3.*

If a fishing be graunted to an Abbot & he vse the fishing in a seueraltie, if he be disseised & died, his successour shall haue a writ of entre for the ground. *H. 13. C. 3.*

And note ye: that a man shall haue the said writ *Præcipe quod reddat pasturam ad duos boues* & this is to be intended that this writ lyeth not against the lord of the ground, for against him lyeth the *Quod permittat. C. 4. C. 3.*

A man shall not haue the said writ of *Præcipe quod reddat passagium vltra aquam* against him that hath the course of the water, but a *Quod permittat. C. 3. C. 2.*

A man shall haue this writ *Præcipe &c. quod reddat balliuam ad custodiendum per eum de L. cum pertiñ quam clamat esse ius et hereditatem suam. H. 7. C. 3.*

Note ye, that a man shall haue a *Præcipe qd' reddat* of a thing that lieth in giuing, as land, rent, and such like, but of a thing that lyeth in taking or sufferance to vse otherwise is, as of *Common, Flowers*, and such like, wherof the partie shall haue assise or a *Quod permittat. H. 4. C. 4.*

A writ de Ingressu super in per.

Rex vic' salutē. *Præc' A. quod iuste & sine dilatione redd' B. vnum mes. cum pertiñ in N. quod clamat esse ius & hereditatem suam, et in quod idem A. nō habet ingressum nisi per C. qui inde iniuste & sine iudicio disseisuiuit T. patrem præd' B. cuius heres ipse est post primā trāsfr dñi H. &c. et vnd' queritur &c.*

This

This writ lyeth where a man is disseised of his free hold, & the disseisour sell to a stranger, or if the disseisour dye and his heire enter, then the disseisee or his heire shall haue the foresaid writ against the alienour, or against the heire of the disseisour. And note ye, that liuing the disseisour no writ of Entre lyeth for the disseisee but onely assise of Mortuor disseisin. And the writ of Entre shall be, Et quod idem A. non habet ingressum nisi per B. qui illud ei dimisit qui iniuste &c. And if the disseisour sell the land, & dyeth, and he to whom the land was solde sell to another, or in case that the disseisour dye, and his heire enter, and the heire die, and his heire enter, then the disseisour, or his heire shall haue a writ of Entre sur disseisin in the Per, & Cui. And the writ shall be thus: Et in quod non habet ingressum nisi per I. S. cui R. D. illud ei dimisit qui inde, &c. And note if the disseisour sell the land, and dye, and he to whome the land was sold sell to another, & the second alienee sell the land to another man, or in case that there be thre discentis of the disseisours part, then the disseisee, or his heire shall haue a writ of Entre in the Post, and the writ shall be: Et in quod non habet ingressum nisi post disseisinam quod H. inde iniuste &c. And note ye, that five things putteth the writ of Entre out of his degrees (that is to saie) Intrusion, Election, disseisin vpon disseisin, iudgement and eschete. First Intrusion is, where the disseisor died seised, and a stranger abate, the disseisee or his heire shall not haue a writ of Entre

Natura

in the **Per**, but the **Writ** shall be in the **Post**: for that, that the abatour is not in by discent nor by purchase, but onely by his owne wrong. The second cause is Election, & that is where the disseisour is a man of religion and dieth or is deposed & his successor entreth the disseise or his heire shall not haue a **Writ** of **Entre** in the **Per**, but a **Writ** in the **Post**, the cause appeareth. The third is iudgemēt, and that is, where a man recouereth against the disseisour, and after the disseisour dyed, the disseise or his heire shall not haue a **Writ** of **Entre** in the **Per**, but in the **Post**. The fourth is Disseisin vpon Disseisin, and that is where the disseisour is disseised and dyed, the first disseise or his heire shall not haue a **Writ** of **Entre** in the **Per**, but in the **Post**. The fift is Escheat, and that is where the disseisour dieth without heire, or do a felonie, for the which he is attainted, and dieth. The lord entreth as in his Escheat, the disseise or his heire shal not haue a **Writ** of **Entre** in the **Per**, but in the **Post**, the cause appeareth. And note ye, that the **Writ** of **Entre** in the **Post** is giuen by y statute of **Mart** in the last Chapter, which beginneth, **Prouisum est, &c.** And the **Proces** is **Sommons**, **graund Cape**, and **petit Cape**. And note ye: that if the issue bring a **Writ** of **Entre** in the quibus, & the tenant plead in barre a feoffement of the same father, the issue shall not be charged to aunswer to the deede, but he shall haue his **Writ** for that, that this is no barre, but it is a trauers to the **Writ**.

A writ

A writ de Entre sine assensu
capituli.

REx vic' salutem. Præc. A. quod iuste &c. redd' B. Abbati sancti Augustini de N. vnum mes. cum pertiñ in N. quod clamat esse ius monasterij sui p'd'. Et in quod idem A. non habet ingressum nisi per C. quondam abbatem monasterij præd', qui illud ei dimisit sine assensu & voluntate capl' monasterij præd', vt dic'. Et nisi fecerit, & præd' B. fecerit &c. Et habeas &c. Teste &c.

This writ lyeth where an Abbot or Pri-
our, or any such that hath couent or com-
mon seale selleth land or tenements that he
hath in the right of his church. without the
assent of the Couent, or chapter, and dyeth,
then his successour shall haue the said writ.
And know ye, that this writ may be made
in the Per, Cui, or Post, as it appeareth by
the Register. And the proces is as in the
writ next afore.

A writ de Ingressu sur cui
in vita.

REx vic' saluē. Præc' A. quod reddat B. quæ fuit
vxor E. vnum mes. cum pertiñ in N. quod cla-
mat esse ius & hered' præd' E. in quod idem A. non
habet ingressum nisi per prædictum E. quondam vi-
rum ipsius B. qui illud ei dimisit, cui ipsa in vita sua
contradicere non potuit, vt dic'. Et nisi fec' &c.

This writ lyeth where a woman is sei-
sed for terme of life in taile, or in fee sim-
ple, and take a husband, and the husband sell
the lande and dyeth, the wife shall haue the
foresaid

Natura

foresaid writ . And the Proces is Graund
 cape and Petit cape . And note ye , that in
 this writ shee shall make title , and the writ
 shall say : Quod clamat esse ius et hereditatem suā,
 notwithstanding her own seisin . And if the
 wife hath other estate then fee simple , as for
 terme of life, the writ shall say : Quod clamat
 tenere ad terminū vitæ suæ & so of fee tail . And in
 case that the husband and the wife purchase
 ioyntly , & the husband sei al the land & dieth,
 the wife shal haue the said writ & recouer the
 whole . And by the statute of Westm 2 . cap . 3 .
 which beginneth : In casu quo vir , &c . wil that
 if land , which the husband hath in the right
 of his wife , be recovered against the husband
 and the wife by default , after the death of her
 husband the wife shal haue the foresaid writ
 & the tenant shal shew the matter of his first
 writ , to which writ the wife shall haue an-
 swer , and if it be found that the tenant hath
 no right , then the wife shall recouer by the
 said writ . But if a man recouer against the
 husband onely the land that he hath in right
 of his wife by default or action tried , and the
 husband dyeth , the wife shall haue assise , and
 not the said writ : for that , that she was not
 partie to the iudgement . And note yee : that
 where a man is a stranger to iudgement he
 may haue trauers to the title comprised in
 that iudgement , as in case that I bring a
 formedon , & the tenant say , that another time
 he brought Ass . of No . diss . against B . & re-
 couered of the gift of which he bringeth , and
 this action was meane betwixt the disseisin
 made

made to him and his recouerie, and demaund iudgement &c. the demaundant said that by such a recouerie you may not deferre the gift, for ye were not disseised, and that am I readie to auerre &c. and that was thought a good plee, but the partie that is priuie shal not haue such an auerrement, for that, that he is helped by Attaint, Error, or Disceipt, after his case, and so no mischiese to hym.

And note ye, that if the wyfe bring her writ of Cui in vita against the feoffee of her husbände, and the feoffee bouch to warrant the heire of the husband that is within age, the plee shal not tary vntill hys full age, for that, that it is remedied by the statut of Westm 2. cap. 40. which beginneth. Cum quis &c. But otherwise is, if the wyfe bring her Cui in vita, in the Per, and Cui, and the tenant bouch him to warranty by whom his entrie is suposed, and he bouch ouer the heire of the husband that is within age, and pray that the plee may tarie vntill hys full age, in this case the plee shal tarrie, for that, that the same statute is not otherwise intended but where the alpenoe of the husband boucheth to warrant the heire of the husband. And note ye, that this action lyeth for the heire of the wyfe, for if the husband sell land that he hath in right of his wyfe, and the husband and the wyfe dye, the heire shal haue the said writ. But if the wyfe bee tenant in taile, and the husbände sell, or the husband and the wyfe loose by default: It is said that the heire shal haue a Forimodon

R. i.

in

Natura

in the discender, and not in a Cui in vita.

And note ye, that if the issue bring the said writ of sur Cui in vita, of the sale made by his father, he shal not be barred of action by the warrantie of his father onely wythout that he hath to the value of fee simple descended to hym from his father that made the warrant. And that is geuen by the statute of Gloucest. cap. 3. whych begynneth. Establie est ensement &c. And in case that the husband let lande that he hath in right of hys wyfe for terme of yeares, and after make a confirmation for terme of lyfe, or in fee, and the husbände dyed, it is said that the wife may not haue the Cui in vita, but A. wife of Nouel disseisin, nor the heire of the wife after the death of the wife shal haue the sayd writ, but a writ of Entre sur disseisin, for the writ shall not suppose such sale to be made by confirmation, nor by release.

This writ of a Cui in vita was, quam clamat tenere sibi & heredibus de corpore &c. and sheweth not of whose gift, wherefore the writ abated: But in a Quod ei de forceat he shal not shew of whose gift. H. 43. C. 3.

The said writ supposeth that the tenaunt hath no entre but by one S. and the tenaunt said that he entred by the said S. and one A. his wife, iudgement of the writ, yet the writ is good, for though that the husbände made a demise to S. and A. his wife, and they demised ouer to the tenaunt, yet al shal bee compted the demyse of the husbände, wherefore the tenaunt pleaded to the action.

But

But if S. and A. had demised by fine otherwise should be, and that the tenaunt should haue pleaded so. *M. 19. C. 2.*

The said writ was brought against the husband and his wife, supposing that the wife hath no entrie but by one J. to whom the husband of the plaintife demysed &c. the tenants said that the husband and the wife entred by the saide J. iudgement of the writ, and that plee was not allowed without trauersing that the wife onely entred. *H. 23. C. 3.*

If the husbände and the wife, and the third purchase iointly, and the husbände sell all the lande and dye, the wyfe shall not haue a Cui in vita lyuing the thirde, for that, that they may ioyne in a writ of Ryght: But if the thirde dye, she shall haue a Cui in vita of the whole, but if the purchase was afore the maryage, then she shall haue a Cui in vita but of the halfe, no more then a Cui ante deuortium. *M. 36. C. 3.*

If the husband be seised of land for terme of lyfe in the right of the wife, and thereof make a feoffement, by force whereof hee in the reuerſion enter, and the husband dyed, the wife shal haue the lande againe. *9. C. 2. Lib. III.*

If the husbände discontinue land that hee hath in the right of his wife and dye, if the wife accept part of the lande in name of dowry. Quare if she shalbe barred. *M. 10. C. 3. H. 7. C. 3.*

R. ij.

If

Natura

If a man geue lande to a woman vpon condition that shee shall sell the land, and to distribute y^e money for the soule of the fesse, the wife taketh a husband, and after the husband and the wife sell the lande and distribute the money according, the husbände dyeth, the wife shal not haue a Cui in vita.

¶ A writ de Ingressu cui ante deuortium.

REX Vic' salutem. Præcipe A. quod reddat B. quæ fuit vxor C. vnum mes. cum pertinentijs in T. quod clamat esse ius & hæreditatem suam, & in qd idem A. non habet ingressum nisi per predict' C. quondam virum ipsius B. qui illud ei dimisit, cui ipsa ante deuorc' int' eos celebra't cōtradicare non potuit, vt dic'. Et nisi fec' &c. Et habeas &c. Teste &c.

This writ lyeth where a man selleth land that he hath in the right of his wyfe, as afore is said in the Cui in vita, and afterward a diuorce is had betwixt them, then the wyfe after the deuorce oz her heire shal recouer against the feoffe, his heire oz his assynges, oz what person soeuer that is in the lande. And this writ may bee made in the Per, Cui, oz Post. And the proces is, as in the writ next afore.

¶ A writ de Ingressu causa Matrimonij prælocuti.

REX Vic' salutem. Præcipe A. quod &c. reddat B. vnum mesuag. cum pertinentijs in N. qd' idem A. ei dimisit causa matrimonij inter eos prælocut', qui eam duxisse debuit in vxorē & nondum duxit vt dic'. Et nisi fec' &c. Teste &c.

This

This writ lyeth where a woman geueth certaine landes, tenements, or rentes to any man vpon condicion, that he shall mary the said woman within a certaine time, if the man wil not mary the said woman with in the said time (betwixt them assigned) or if the man disable himselfe as in taking of another woman to hys wife in the meane time, or bee made a Priest, so that she may not take him to husbände, according to the condicion, she or her heires shal recouer the said landes against the said man, or against whosoever hee in the lande, by this said writ, for this writ may be in the Per, Cui, or Post.

And note ye, that it is conuenient that this condicion be made by indeture, or otherwise this writ lyeth not. And the proces is as in the Cui in vita.

In a Cui in vita, the tenaunt said, that the said R. her husband gaue the same landes to the wife, now demaundant, causa matrimonij prælocuti, and after tooke her to wife &c. And so the effect of the gift &c. Deuon. If a man geue land to a woman by fine, and the next day he marie her, suppose you that the fine is boꝝde: which proueth that by the espousels, the gyft nor the graunt is not defeated. H. 7. C. 3.

¶ A writ de Intrusion.

Rex Vic' salutem. Præcipe A. quod &c. reddat B. vnum mes. cum pertinentijs in N. quod clamat esse ius & hæreditatem suam, & in quod idem A. R. iij. non

Natura

non habet ingressum nisi per intrusionem quam in illud fec' post mortem C. quę fuit vxor G. quę illud tenuit in dotem de dono præd' G. quondam viri sui, patris prædic' B. cuius hæres ipse est, vt dic'. Et nisi fecerit &c. Teste &c.

This writ lyeth where the tenaunt for terme of lyfe, or of another mans life, tenant in dower, or tenaunt by curtesie dyeth seised of certaine landes & tenements, and a straunger enter, he the reuerſion ſhall haue the ſaid writ againſt the abator, or agaynſt whoſoeuer that is in the land after the death of ſuch tenants.

And note that this writ may be in the Per, Cui, or Poſt, as other writs of Entree.

And note ye, that Aſſiſe of Mortdaunceſter, Ayl, Coſinage, aſſiſe of Darreine preſentment, & Nuper obiit, are called writs of poſſeſſion, in which writs a man ſhall recouer damages, coſtes, and the iſſues of the land or tenement demanded. And note ye, that a writ of Intruſion in the time of vacation ſhalbe main-
tayned for the ſucceſſor againſt the abatour that is in, in any land or tenement that belongeth to his church after the death of hys predeceſſor, and that is geuen by the ſtatute of Marlebridge cap. vltimo. And the proces is as in the Cui in vita.

The graundfather, father, & the ſonne are, and the graundfather let land to the father for terme of his lyfe, the graundfather & the father died, and a ſtraunger abate, the ſonne ſhall haue a writ of Intruſion, and declare of the ſeiſin of the graundfather, and make
dis-

discent by his father. **D. 7. C. 3.**

If landes be let for terme of lyfe, the remainder ouer in fee, the tenant for lyfe dyed, a straunger abate, he in the remainder may choose to haue a Scire facias, or a writ of Intrusion. **D. 6. C. 2.**

¶ A writ de Ingressu ad communem legem.

REX Vic' salutem. Præcipe quod iusté & sine dilatione reddat B. vnam bouatam fræ cum pertiñ in N. quam clamat esse ius & hæreditatem suam, & in quam idem A. non habet ingressum nisi per C. que fuit vxor D. qui illam ei dimisit, & quæ illam tenuit in dotem de dono prædict' D. quondam viri sui, patrem prædict' B. cuius hæres ipse est, vt dic'. Et nisi &c. Et habeas &c. Teste &c.

This writ lyeth where the tenāt for terme of lyfe, or of anothers lyfe, tenant by curtesie, or tenant in dower, make a feoffement in fee and dyeth, he in the reuerſion ſhal haue the foresaid writ against whosoever that is in the land, after such feoffement made.

And note ye, that this writ may be made in the Per, Cui, or Post.

And note ye, that it is geuen by the statut of West. 2. ca. 3. which beginneth. In casu quo vir &c. if tenaunt in dower, or by the curtesie looſeth by default & dye, he in the reuerſion ſhal haue the said writ: but if the tenant by the law of Englande make a feoffement, or looſe by default & dyeth, he in the reuerſion may recover by Aſſiſe of Mortdaunceſſor, Auel, or Couſnage, notwithstanding the ſeiſin of þ tenant by the curtesie, as it appeareth

R. iiij.

by

Natura

by the statut of Glouſ cap. 3. which begin-
neth. Eſtablie eſt, que ſi home de &c. where hee
might haue had the writ of Entre at the com-
mon lawe. And the proces is as in other
writs of Entre.

In a writ of Entre at the common law, the
writ ſhewed not the death of the tenant for
terme of lyfe, wherefoze the writ was aba-
ted by iudgement, and after reuerſed in the
kings Bench, for that, that there is no other
fourme of writ. M. 16. C. 3.

¶ A writ de Ingreſſu in caſu prouiſo.

REx Vic' ſalutem. Præcipe A. quod &c. reddat B.
vnum meſuag. cum pertinen in N. quod clamat
&c. & in qd' idem A. non habet ingreſſ. niſi per C.
que fuit vxor G. quæ illud ei dimiſit, vel quæ illud
tenuit in dotē de dono præd' G. quondam viri ſui,
patris prædic' B. cuius hæres ipſe eſt, qd' per dimiſſi-
onem per ipſam C. præſat B. contra formam ſtatuti
Glouceſt. de communi conſilio Regni Angl' inde
prouiſ. factā in feod', ad præſat B. reuerti debeat per
formam eiꝝ ſtatuti vt dic'. Et niſi fecerit vt ſupra.

This writ is geuen by the ſtatut of Gloſ
cap. 7. which begynneth. Enſement, que ſi
feme vnde &c. and lyeth where tenant in do-
wer maketh a feoffement in fee taile, or for
terme of lyfe of the leſſee (lyuing the tenant
in dower) he in the reuerſion ſhal haue thys
writ againſt him that is in the lande. And
this writ may be made in the Per, Cui, or Poſt,
as other writs of Entre.

And note ye, that this writ lyeth during
the lyfe of the wife & not after the death.

¶ A

¶ A writ de Ingressu in consimili casu.

REX Vic' salutem. Præcipe A. quod iusté & sine dilatione redd' B. vnum mes. cum pertiñ in N. quod clamat esse ius & hæreditatem suam, & in qđ idem A. non habet ingressum nisi per C. qui illud tenuit per legem Angliæ, post mortem G. quondam vxor' suæ, matris prædict' B. cuius hæres ipsa est. Et que post dimissionem per ipsum C. præfat' A. inde faci' in feodo ad præfatum B. reuerti debeat p formam statuti in consimili casu prouis. Et nisi fecerit &c. Teste &c.

This writ is takē by the equitie of the Statute of Glouc' cap. 7. and lyeth where the tenant for terme of lyfe, or by the curtesye make a feoffement as afore is sayde, he in the reuersion shall haue this writ against whoeuer bee in the lande during the lyfe of the tenant by the cartesy, or tenant-for terme of life and not after their death. H. 12. C. 3. And this writ may be made in the Per, Cui, or Post. And the proces in these two writs is Somons, graund Cape, & petit Cape.

Note yee: that this writ was maintatined by the tenant in taylor in the reuersion and the writ made mention of the taylor. H. 21. C. 3.

Note yee: that this writ was purchased duringe the lyfe of the tenant for terme of lyfe, and hanging the writ the tenant dyeth, yet the writ was awarded good, for that, that he was a straunger to the writ and also the action is brought of the alpenatyon. C. 6. C. 2.

If a man let landes for terme of lyfe, the
remain=

Natura

remainder to another in fee by fine, the tenant for terme of lyfe made a feoffement in fee, hee in the remainder in fee brought the said writ, and the writ was good by the opinion of the Court. *H. 28. E. 2.*

Note ye, that the graūtee of the reuerſion brought the said writ, and was iudged good *ex assignatione &c. H. 12. E. 2.*

¶ A writ de Cessavit per biennium.

REx Vic' salutem. Præcipe A. quòd &c. reddat B. vnum mes. cum pertinentijs in N. quod idem A. de eo tenet per certa seruitia. Et quod ad præfat B. reuerti debeat per formā statuti de communi consilio Regni nostri Angl' inde prouis. eo quòd præd A. in faciendo seruitia prædict' per biennium iam cessavit, vt dic'. Et nisi fec' &c. Teste &c.

This writ lyeth where my berie tenaunt holdeth of me certaine lauds or tenemēt's by the seruices of homage and fealtie, and to geue to me euery yeare at certaine termes of the yeare certaine rent: of which seruices I was seised by the hand of the tenant, then if he cease of the payment of the said rent by ij. whole yeares, so that I could not finde a distress in the said tenements. s. no goodes whereby I myght distreyn hym to haue payde the said rent, but suffereth the landes to lye freſhe without manurance after the said two yeares past, the said tenements because of the cesse ought to reuert to me, and then I may not recouer by this writ against my tenant or his heire, or against whosoever be in after the said cesse by ij. yeares.

And

And note ye, if he against whom my writ is brought, come in court afore iudgement geuen, and pay to me the arrerages & damages reasonable for the said cesse, and finde suertie (as the Court will award) that hee shal cesse no more of the payment of the rent, then he shal hold still the said tenements, so that I shal not recouer by this writ.

And note ye, that the heire may not maintaine this writ, because of a cesser made in time of his auncestoz, nor shal haue no rent suit, nor arrerages due in the life of his auncestoz. And also it is said, that this writ lyeth of the cesser of no seruices, but of yerely seruices, as of rent and such lyke, and not of homages, fealtie, escuage, and reliefe, for these are no yerely seruices.

And note ye, that if I dye seised of yerely seruices, and the tenant cesse the two yeres next after my death, so that my heire was neuer seised of the seruices, yet my heire shal haue the said writ against the said tenant or his heire, or against what person soeuer that is tenant, and he shal name him selfe heire to his father in the writ. And so is the statute of Westminster 2. cap. 21. which beginneth, Cum in Statuto apud Gloucest. &c.

In a Cessavit the writ was, that one J. holdeth certaine landes by certaine seruices, and that the said J. hath cessed, and declared that J. holdeth of him the manoz of M. whereof the Carue is parcel by certaine seruices, & that the tenant hath no entrie but by J.

Natura

I.and the writ was challenged: for that, that he declared that the whole manor was holden of hym by certaine seruices, and hee assigned the cessour but in the land demaunded that is parcell of the manor where hee ought to haue assygned the cessour in the whole manor, and that exception was not allosed, for the cessour shall not be assigned but in the land demaunded. *C. 8. E. 3.*

A Cessavit was brought against *A.* & declared that *B.* helde of him, and that the tenements ought to reuert, for that, that the said *A.* hath cessed, and the writ awarded good without speaking of any entre. *M. 29. E. 3.*

In a Cessavit be found iij. pledges, and the court awarded, if the rent be behinde after that the Lord shall distraine in the land of the pledges. *An 31. E. 1.*

Two coparceners are intituled to haue a Cessavit, the one hath issue and dyeth, he that suruiveth shall not haue the action. Otherwise it is of ioyntenaunts: If the husbände hath a seigniozie in the right of his wife, and the tenant cesse, & after the husband dyeth, the wife shall haue the Cessavit. *H. 33. E. 3.*

In a Cessavit the tenant said, that hee hath declared in the right of his Church, in the writ is not comprehended, quod clamat esse ius ecclesie sue, and therefore he demaunded iudgement, but the plee was not allosed, for that, that the Abbot shall not make title in this writ, for that, p̄ it is geuen by the statute. *H. 10. E. 3.*

Note ye by Prisot, that a Cessavit lyeth of
suit

suit of court, if the Lord hath a court, if not the tenant may alledge that. *M.* 33.

Cessavit was maintayned by an infant, for that, that it is geuen in place of auowrie, notwithstanding that it be a writ of Right in his nature. *M.* 17. *C.* 2. *P.* 10. *C.* 3.

Note ye, that a Cessavit lyeth not for the donour against the donee, but if land be geuen in taile the remainder ouer in fee, the chiefe Lord shall haue a Cessavit against the tenant in taile, for that, that the Lord shall not be barred by the act of a stranger. *C.* 19. *C.* 3.

¶ A writ de Cessavit per biennium de feodi firma.

REX Vic' salutem. Præcipe A. quod &c. reddat B. unum mes. cum pertinentijs in N. quod idem B. eidem A. dimisit ad feodi firmam, reddend' inde per annum eidem R. terc' partem seu valorem mes. præd'. Et quod ad ipsum B. reuerti debeat per formam statuti &c. inde prouis. eo quod prædict' A. in solutione firme præd' per biennium iam cessavit, vt dic'. Et nisi &c. Teste &c.

This writ lyeth where a man geueth certaine land in fee simple, or in fee taile, paying to him and to his heires in fee ferme by yeare, that is to say, rent, or to finde to hym and to his heires Estouers or clothing, the which charge so reserved to hym and to his heires amounteth to the value of the iiii. part at least, or more, as to the third part, or the halfe, or the verie value of the lande or tenement so charged, then if the sayde
fee

Natura

fee ferme be not paide by tſwo ſwhole yeres,
noꝝ that he may not finde diſtres in the ſayd
tenements within the ſaid tſwo yeres, then
ſhall he oꝝ his heire recouer againſt the te-
nant by the ſoꝛſaid ſwrit.

And note, that no man may diſtraine foꝝ
theſe charges but where thoſe tenementes
are geuen in taile, as afoꝛe is ſaid, oꝝ that
they ſwere geuen in fee ſimple afoꝛe the ſta-
tute of Quia emptores terrarum &c. foꝝ if te-
nements be geuen in fee ſimple after the ſta-
tute afoꝛeſaid, a man may not diſtraine.

And note ye, that the heire ſhall not haue
this ſwrit becauſe of ſuch charge behynde in
time of his auncetoꝝ, And the pꝛoces is in
this ſwrit graunde Cape and petit Cape.

¶ A writ de Ceſſauit de Cantaria per biennium.

REx Vic' ſalutem. Præcipe Iohanni Abbat' de N.
quod reddat B. vnum meſ. cum pertinentijs in N
quia A. pater præd' B. cuius hæres ipſe eſt, dimiſit
C. quondã Abbati & ſucceſſ. ſuis Abbatibus de N.
præd', ad inueniendum quendam Monachum pro
animabus præd' A. & hered' eiufdem A. in abbat
de N. præd' diuina celebraſ. Et quia ad præſatum
B. reuertere debet per formam ſtatuti de comuni
conſilio Regni noſtri Anglię ſuper huiufmodi di-
miſſione prouiſi, quia præd' Iohannes inueniend
præd' Monachum per biennium ceſſauit, vt dic'. Et
niſi fec' &c. Teſte &c.

This ſwrit lieth where a man geueth lãds
to any Church to finde foꝝ the ſoule of
him & his auncetoꝝ and his heires, a candle
oꝝ

oz lampe befoze the Sacrament to burne for a certain time, oz to do any almes, viz. as to cloth oz feede certain poore people euery yere, oz to do diuine seruice in any Chappell for their soules &c. vt supra . Then if the saide charges be not done, and that a man may not finde distress vpon the ground by two yeres, then he oz his heires shall haue the said writ after the said two yeres past, against whomeuer that is tenant after the cessor.

And note ye, y these writs aforesayd may be made in the Per, Cui, oz Post, but I beleue that this writ may not be made but in the first degree. And the proces as afoze is said.

In a Cessauit against a Priest of Chauntera, supposing that he holdeth the same tenements of the wife of the demaundant by the seruices to sing euery Sunday in the yere Masse and Mattins, and that he and al his predecessors hath holden the said tenements by such seruices, tyme out &c. the which landes to them ought to reuert, for that, that he hath celled by two yeres, and for that, that the statute is, Quod competet actio donatori aut eius haredi, and that he hath not declared that it was donour, oz of whose gift he holdeth the land, the writ was abated. M. 7. R. 2.

¶ A writ de Contra formam collationis.

REx Vic' salutem. Precepe A. Abbati de N. quod reddat B. vnum mes. cum pertinen in P. quod eidem domui collatum fuit in liberam eleemosinā per
præ-

Natura

prædictum B. Et qd' per alienationē per prædictum Abbatem, contra formam collationis prædictę inde factam in feodo ad præfatam B. reuerti debet per formam collationis prædictę, vt dic'. Et nisi fec' vt supra. Teste &c.

This writte lyeth where a man geueth landes or tenements, or rent to any Abbot or Prior of any house of Religion, or holy church, to haue and to holde to him and to his successours in pure almes or otherwise to finde certaine poore people, or to make certaine diuine seruice, as afore is said, in the writ of Cessavit de cantaria, then if the sayd Abbot or Prior, or any of his successours make a feoffement with assent of the said tenants, to the disherison of the house or church, as for terme of lyfe of the lessee, in taile, or in fee, he that so did geue the sayd tenements, or his heire shall haue the said writ against the soueraigne of the said house or church that made the feffement, or against his successour, if the feffours be dead, and not against the feoffee that is tenant of the land, as it appeareth by the statut of Westm 2. cap. 41. which begynneth. Cum statuit dominus Rex &c. and when he hath recovered against the Abbot, then shall go a writ of Execution to the Shirife to deliuer seisin of the land. And the proces is Summons, graunde Cape, & petite Cape.

Note ye, that if an aduowson be geuen to an Abbot in free almes, and graunt the said aduowson at the next auoydance, the donour or hys heires may present, for that,
that

that he may not haue a Contra formam collationis. 17. 20. C. 3.

And note ye, y^e when he hath recovered against an abbot in this writ, & hath a scire facias against the tenant, he may traaverse the action of the demaundant in the same point y^e was tried afore betwixt the abbot & the lord for that, y^e this recovery bindeth no strangers but priues, as in other cases. 17. 23. C. 2.

¶ A writ de forma donationis in the discendre.

REX vic' salutem. Prec' A. quod iuste &c. reddat B. vnum mcs. cum pertiñ in N. quod C. dedit B. & E. vxori eius & heredibus de corporibus ipsorum B. et E. exeuntibus. Et quod post mortem dictorum B. & E. prefato B. filio & heredi prædictorum B. et E. per formam donationis præd' discendere debet. Et nisi fecerit &c. Teste &c.

This writ lyeth in case where a man geueth certaine landes or tenements, or rent in free maryage, that is to say to a man with his coſyn in maryage, or to a man & his wiſe and to the heires of their two bodies begotten, or to a man & to his heires of his bodye begotten (males or females) if that man or woman, to whom the land is ſo geuen hath iſſue of his body & died, & a ſtraunger abate, or if the donee make a feſſement of thoſe lāds by fine or without fine, or if he be diſſeſſed of thoſe tencmentes, or if a man thoſe recover by default in the kinges court, then after the death of the ſame man to whom the lande is geuen, his heire of his bodye begotten ſhall haue

Natura

haue the said writ. And note ye: that tenementes in such maner geuen are called tailed landes. And note ye: that the heire of such tenants shall neuer haue other writ of the possession of his auncestour, then the sayde writ, but of his own possession, he may haue assise of Nouel disseyn or a writ of Entre upon disseyn according to his case, and the formedon in the discendze is the writte of Right to the heire in taile. And note ye: that it is a good barre in the sayd writ to pleade þ feoffement of the auncestoz with a warrāty, & that the tenant wil auerre þ the heire hath assets by the discent in fee simple notwithstanding the statute of Westm̄ 2. cap. 1. which be- ginneth. In primis de tenementis &c. if the heire in the taile hath assets by discent vt supra, & hee hath issue & make a feoffement of the assets þ is in fee simple, & die, though that his father had assets by discent & was barred, this heire shal not be barred, for euery heire in the taile is priuy to recouer the land tailed except that he hath aduantage by discent in fee simple. Otherwise is where a man maketh a feoffement of the land that he hath in ryght of his wife in fee simple that he holdeth by the curtesie & dyeth, & þ value in fee simple discēdeth to his issue that is heire to the wife, though that þ heire sel the fee simple after & hath issue & die, that issue shal be barred to demand of the seisin of his mother: for that þ his father was barred at one time. And note ye, that if the father tenant in tail in possession enter in religion & be professed, his heire shall haue the
said

said writ, & it shal say thus. Postquā pater suus habitum religionis assūpsit &c. But if the father make a fessement afoze the entry in religion, the sone shal not haue þ said writ during the natural life of his father. And it is said, that if the tenant in the tayle die without issue of his body, so þ the lād is reuertible to the donor, yet the wife of the tenant in tayle shal haue her dower. Also it is said, if land be geuen to a woman & to her heires males of her body begotten, if she take a husband and hath issue female, & the wife die, the husband shal not hold by curtesy for that, that it is impossible that the issue female shal enherite, but if land be geuen to a man, & to his heires males, it is sayd that if he hath issue male and dieth, the issue hath fee simple. And note, that a mā shal lay the taking of the profits in a form done in the discender onely in the person of him to whom the land is geuen in the taile, & the demaundant in this action shal make him selfe heire to the auncelkoz that was last seized. And note yee: that if the tenant in tayle hath issue a sonne and a daughter by one woman and a sonne by another woman, and dieth the sonne by the first woman entreth and dyed seysled, the sonne by the seconde woman shal enheryte and not the daughter, for he is moze worthye of bloud, and moze neere heire to the father to whom the land was geuen, otherwyle is of lande in fee simple. And note yee: howe the demaundant maye mayntayne the sayde Writte where the tenant pleadeth that the donour

S. ij.

did

did not geue &c. the demandant may say that he shal not haue his auerment, for one J. M. impleaded my father, & he bouched the same J. & entred into the warrāty, & pleded & lost the same land that now is in demaund, iudgment &c. And note ye: that in a formedon in the discender a warrant of any of the aūces-
tors by whom the heire made contuepance is no barre, except that he hath lande in fee sim-
ple descended to the value.

Land was let for terme of life, the remain-
der in taile, the tenant for terme of life dieth,
& the tenant in taile hath issue & dieth, & the
issue bringeth a formedon in the discender, &
alledged no esplees in the donor, but in the
tenant for terme of life, & after his deathe in
him in the remainder in taile, & the declarati-
on was challenged, for that, that he allegeded
not esplees in the donor, & the exception was
not allowed. D. 8. C. 2.

Tenant in taile exchaunged the land taye-
led for lande in fee simple (by deede) & bounde
him & his heires to warrāty, & hath issue &
dieth, & the issue bringeth a formedon & the
tenant pleadeth in barre the deede with war-
ranty, & the land taken in exchange by way
of Aūse: that was holden no barre, if the
heire hath not occupied the land taken in ex-
change after the death of his aūcestor. An
18. H. 8.

The tenant in taile afoze the statute made
a release for terme of life, and released afoze
the statute: that is a barre to his heire. H.
44. C. 3.

In a Forzmdon of rent, the warrant of the auncestoz with assents is a good barre, yet the rent lyeth not in discontinuance, but at the wil of the issue, but it is the folly of the issue to bring his action. H. 3. 2. C. 3.

Note ye, that if the wife tenāt in tail take a husband, and hath issue, & afore the statute they both make a feoffment in fee of the lāds and dye, in a Forzmedon the heire shal not be barred, otherwise is if it had been by fyne. C. 4. C. 2.

A Forzmedon in þ discender was brought of a knightes fee, & the writ was challenged for that, þ the fee lyeth not in demesne, for he hath declared þ the auncestoz was seised as of fee & of right, & laid þ esplees, as in homage, escuage, reliefe, ward, mariage, & other manner of issues of knightes fee, as of fee and of right, & Gerfarde said, that a cōmon to a certaine number of beastes noz aduoxon lieth, not in demesne, but a Præcipe quod reddat, and a writ of ryght lyeth of a knightes fee, and by demaunde of a knightes fee I shall recover by chaunce xx. li. of rent &c. and it was said that hee shall neuer haue other writ C. 10. ED. 3.

In a Forzmedon the writ was challenged for that, þ it wil that A. & B. his wife hath genen, exception was taken, because that the gift of the wife is boide during the mariage, & Herle said, that if the wife after the death of the husband had confirmed the gift þ was made by her and her husband, that then the gift was made stedfast, and the writtes was
S. iij. aswar=

awarded good. A Formedon was brought by J. G. & J. his wife, & it was sayde when the sonne is seised after þ death of his father the writ shalbe. Et quæ post mortem prædictorū I. & M. fil & hered' prædicti I. p̄fato B. &c. so that they are seised every one shalbe made heire to another, but when they were not seised the writ shalbe. Et quæ post mortem præd I. & VV. filie. Añ 19. E. 2.

In a Formedon in the descender by assent of the parties, a deede was shewed to proue the gift, and it was such. Sciant &c. quod ego Hugo Blont dedi, concessi &c. Hugoni B. filio Hugon B. & filijs suis masculis de corpore suo legitime procreatis manerium de B. &c. habend', & tenend' manerium p̄d' sibi & filijs suis mascul' de corpore &c. de capital' dominis &c. Et qui eorum diutius vixit gaudebit in feodo & hereditat' imperpetuum. Et si contingat p̄d' Hugonem sine herede mascul', de corpore suo legitim' procreat' obire, quod ex tunc maner' p̄dict' &c. mihi & hered' meis reuertatur imperpetuum, & vpon this deede it was demurred in iudgement if the donee hath fee simple, or fee taile, & the opinion of the court was that it was good taile. C. 11. R. 2.

¶ A writ de Forma donationis in the remainder.

¶ Ex vic' salut'. P̄r A. q̄ &c. redd' B. vnum mes. cū p̄p̄tin in N. quod E. dedit D. et her' de corpore suo exeunt'. Ita quod si id D. sine her' de corpore suo exeuntibus obierit p̄d' mes. p̄f. B. & hered' suis remaneret. Et q̄ post mortem præd B. p̄f. B. remanet' debet per form' donationis præd' eo quod p̄dict' D.

D. obijt sine heredē de corpore suo exeunte, vt dic'. E. nisi fecerit &c. Teste &c.

This writ lyeth where lande or tenement is geuen for terme of lyfe or in tayle to a man, and for default of issue of his bodye to remaine to another man, as afore is sayde, in fee, or for terme of life, then if the tenant for terme of lyfe dye, or the tenant in tayle dye without issue of his body, & a straunger enter, he in the remainder shall haue the sayde writ. And in case y^e the remainder be graunted in taile, and he in the remaynder dyeth seised by force of the remainder, the issue of him in the remaynder shall haue no other writ but a writ of Formedon in y^e discender, but if he in the remainder was neuer seised, the issue shal haue a Formdon in the remainder and not in the discender. And it is sayde, where land is let for terme of life, the remainder ouer, & the tenant for terme of life is impleded, & vouch to warrāt his lessor &c. & the tenant for terme of life recouer other land in value, he in the remaynder after the death of the tenant for terme of life shal recouer by a Formdon in the remainder those lands so recouered, as well as if the tenant for terme of life had continued his estate in those landes recouered against him, for that, y^e the tenant for terme of life recouered to the value by the same taile vpon which the remainder was tailed, Otherwise is of a reuerſion, for that, y^e he hath recouered vpon another dede then vpon the dede by which the reuerſion was graunted, but if the tenant had vouched him

S. iij.

to

to whom the reuerſion was graunted becauſe of the reuerſion, and he had bouchéd ouer the leſſor, and had recouered to the value, the reuerſion ſhalbe to him to whom the reuerſion was graunted & not the leſſor. And note ye, that if tenant in taile make a feoffement with a warrant, or release with a warrant, & dye without heire of his bodye, ſo that hee in the remainder is heire to him, he ſhall bee barred without diſcent of aſſetes, for that, that this warrant is not reſtrayned by the ſtatute. And if the tenant for terme of lyfe make a feoffement with warrant or release with warrant, and die without iſſue, ſo that he in y^e remainder is heire to him in a ſormedon in the remainder he ſhal be barred by the deede with warrantie, except that the warranty be defeated in the life of the tenant for terme of life.

And note ye, that after the vie we the tenant ſhall be receyued in a ſormedon in the remainder to demaunde what he hath in the remainder, and except that he hath writing to theſe all times hanging the plea, he ſhalbe barred, and yet the tenant may take no iſſue vpon the deede but ought to anſwere to the gift, & if the ſaid writ be brought by him to whō the remainder was tayled after y^e death of the tenant for terme of life, if he demaunde for ſimple, or for taile, he ought to lay the eſſe in the perſon of the donor, as of fee ſimple, and in the perſon of the tenant for terme of life as of free holde, but if hee demaunde by remainder but for terme of life, he ſhall laye the
the

the espleas onely in the person of hym that made the deede.

If the remainder be tailed to a woman and shal take a husband, the wright shalbe remanere deber to the husband and to the wife, and so it is of a fozmedon in the reuerter, but in a fozmedon in the discender, it shalbe to the wright onely. *H. 29. H. 6.*

In a fozmedon in the remainder, the tenant demaunded what he had of the remainder, and so the other said, that he brought assise of Nouel disseisin of the same lands, and the tenant in the assise pleaded in barre, & he made title of the same gift, and the gift was found, the demaundant was indged personable by the recouery to maintaine this action without shewing other deede, & yet the pleintife took nothing by the assise, for that that it was founde that the pleintife was not disseised. *D. 10. C. 3.*

In a fozmedon in the remainder, the partie neede not shew no deede vnto the partie demaundant what he hath of the remainder, but if executors bring an action they ought to shew the testament without desire of the party defendant, for the court shal not holde plee, except that the testament be shewed, and that in debt. *Wh 36. C. 3.*

¶ A writ de Forma donationis en le reuerter.

REx vic' salutem. Prec' A. quod &c. redd' B. vnum mes. cum pertiñ in N. quod E. pater præd' B. cuius heres ipse est dedit D. & I. vxor' eius, & hered' de corporibus suis exeunt. Et quod post mortem ipsor

ipſor D. et I. ad preſat B. reuerſe debet per form̄ do-
nationis præd̄ eo q̄ p̄d̄ D. et I. obierunt ſine hered̄
de corporibus ſuis exeuntibus vt dic'. Et niſi fecerit
&c. Teſte &c.

This ſwrit lyeth ſwhere lands oz tenemētſ
are geuen in the taylor as afoze is ſayde, if
the tenant die ſwithout iſſue ſwhere there is
no remainder, & a ſtraunger enter in the ſaid
tenements, the donour oz his heire ſhal haue
his recouery by this ſwrit. And note ye, that
this ſwrit lyeth after the death of no tenant
but after the death of tenant in taylor. And
note ye, that in this ſwrit the eſpleas ſhal be
layde in the perſon of the donour, and in the
perſon of the donee. And the proces in theſe
three ſwrits is Homons, graund Cape, and
petit Cape.

In a Forzondon in the reuerter the tenant
ſaid, that the gift was made to the donee and
to his heires, and aſſignes, iudgement of the
actiō, & that was holden no plee ſwithout tra-
uerſing the gift. C. 2. H. 6.

In a Forzmedon in the reuerter, the tenāt
ſayd that the gift was made to him to ſwhom
ye ſuppoſe the gift in fee ſwith ſwarrāt, iudg-
ment if contrary the deede &c. C. 17. E. 3. C.
33. E. 3.

Note ye, that if the donoz hath iſſue two
ſonnes, and the eldeſt ſonne die ſwithout iſſue
in the life of the father and after the father
dyeth, if the yongest ſonne bring a Forzondon
in the reuerter, he ſhal not make mention of
his brother, except that he ſuruiued his fa-
ther. H. 18. E. 2.

¶ A writ de Particione facienda.

REX Vic' salutē. Si A. fecerit tunc sum &c. B. quod sit &c. tali die ostensurus, Quare cum idem A. & B. infimul & pro indiuiso tenent quendam boscum in N. cum pertinentijs de hereditatē, quæ fuit I. patris prædictorum A. & B. cuius hered' ipsi sunt in N. id' B. ad partitionem inde inter eos secund' legem & cons. regni nostri Angl' faciendam contradic' & eam fieri non permittit minus iuste vt dic'. Et habeas ibi &c. Teste &c.

This writ lyeth in case where a man is seised of lands and tenements in fee, and hath two daughters and dieth, or seised of land in Gavelkinde & hath issue ij. sonnes, & the one will not make partition of the landes so disceded, the other that wil make partition, shal haue this writ against her, or him that will not, for that, that they are heires to the said man iointly &c.

In a Particione facienda against C. and A. his wife, of lād that disceded to them as co-sins & heires to one R. the tenant sayde that R. in his life enfeofed one J. in fee, which J. infeoffed the sayde C. in taylor without that, that the plaintife, & A. wife of the sayd C. helde in common or vndeuided the day of the writ purchased or euer after, and this is a good barre. An 39. B. 6.

In a Particione facienda of land & rent the tenant said that the auncestoz enfeofed a stranger of the land whose estate the tenant hath, & as to the rent, he said that he was sole tenant, wout that, that he holdeth vndeuided, & the pleæ was challenged in so much y' he hath

no title to the lande by any feoffement nor o-
ther title and shalbe intended tenant as the
writ supposeth, & the opinion was, that the
plee is good. *M. 4. B. 7.*

Note ye, that it is said, that tenant in cō-
mon ne iointenant shall not be compelled by
the law to make partition, but if it be made
by agreement, it is good as wel without deede
as with deede *M. 3. B. 4.*

A writ of Particione facienda brought by the
husband and the wife against the other par-
cener, and declared howe the husbände and
the wife as in the right of the wife, and the
other parcener held in common certain lande
& conueied the discent from the cōmon an-
cestor &c. the parcener came by gardeine: for
that, that she was within age, and might not
deny that they helde in cōmon by the maner,
but Herle sayde, that he could not see howe
the partition can be made as long as shee is
within age by writ: but out of the Court it
may well bee as in the Countrey: for that,
that she may defeate it when shee will. *Id.*
8. E. 3.

¶ A writ de Premunire facias.

REx vic' Cantuar' sal. Cum in statuto in parlia-
mento domini Regis Angl' secundo apud V Vin-
ton Anno regni sui 15. tento edito inter cetera or-
dinat' sit & stabilit', quod si aliquis impetrauerit aut
psecutus fuerit seu impetrari vel psequi fecerit in cur'
Rom' vel alibi aliquos processus, summonias, excō-
municand', bullas, instrumenta, vel alia quecunque
quæ

quæ tangunt nos, coronam regalem, seu regnum nostrum, & illi qui ea in dictum regnum nostrum detulerint, aut ea receperint, vel ind' notificationem, seu aliam executionem quamcunque infra idem regnum nostrum, seu extra, fecerint: ipsi notarij, procurator, manutentores, abettatores, fautores & consiliarij sui extra protectionem nostram ponant, & terre, tenementa, bona, & catalla sua sint nobis forissact. Et quod ipsi per corpora sua attachient, si poterint inueniri, & coram nobis & consilio nostro ducantur, ad respondendum ibid' super casibus supradictis, vel processus fiat versus eos per premunire facias modo quo ordinatum est in alijs statutis de prouisoribus, & alijs qui in alienis curi, in derogationem regaliæ nostræ prosequuntur, prout in statuto predict' plenius continet. Iamq; ex graui querela VV de E. acceperimus, quod licet cognitiones pñtorum transgressionum, contemptu, aliorumq; laicorum contra quorumcunque infra regnum nostru Angliæ qualitercunque fact, et ppetrat ad nos, coronam & dignitatē nras specialiter pertineat: Quid' tñ Robertus C. nuper de VV. in com tuo statutum præd' minime ponderans machinans nos & coronę nostræ exheredit, & cognitionem huiusmodi placitorum de transgressionibus, quæ ad nos & coronam nostram sic pertineant, ad illud examen extra regni nostrum prædict' trahere, et prædict' VV. ac alios de subditis nostris indebite pregrauare, & aduersus curiam Rom se diuertebat, & ibid' absque licentia nostra adhuc residet, atque quamplures processus, sententias & citationes versus ipsum N. ad ipsum VV. ac alios de subditis nostris pñ extr reg. nostr pñdictum trahendum ad respondendum præfato præposito in dicta curia Rom extra regni nostr Angl, de qui-

Natura

quibusd' trāsg' sibi (vt dic') illatis ac quāplura aī nobis & coronæ nostrę preiudicialia ibidem prosecutus fuit, eaq; per I. R. nuper de C. Genē apud VV. pronunciari, publicari, notificari, et exec' demandari fecit, et fieri procurauit. in nostri cōtemptum et preiuditium, et exheredationis coronæ nostrę periculum manifestum, et ipsius w. dampnum non modicum et grauamen, ac contra vim, formam et effectum statuti prædicti. Nos statutum illud inuiolabiliē obseruari, et illud impugnantes, iuxta eorum demerita, castigari volentes et puniri, Et quia prædict' VV. fecit nos secur' de clam' suo prof. per A. B. C. D. & F. tibi precipimus, quod per bonos et legales homines de balliua tua Premunire facias prefat' prepositū, et I. R. procuratorem, manutentorem, fauctorem, cōsiliarium, auxiliatorem, et abbettatorem ipsius prepositi in hac parte: quod tunc sint coram nobis a die Paschæ in xv. dies, vbicunque tunc fuerimus in Anglia ad respondendum tam nobis de contemptu et preiudicio prædict', quam prefat' w. de dampnis et iniurijs sibi in hac parte illatis. Et ad faciend' vlt'rius et recipiend', quod curia nostra consideraue'rit in premisis. Et habeas ibi nomina eorum per quos eos premunire facias, & hoc breue, Nos de die et loco, quibus dictam premunionem sibi feceris, sub sigillo tuo distinctē et aperte tunc certificans &c. Teste &c.

This writ lyeth where any prouisor sueth procees to the court of Rome against the presentee of the king or of any other patron, then the presētee of the king or other patron shal haue this writ which shall bee directed to the shirife: commaunding him to warne þ prouisor, that he distourbe not the presentee of

of the king or of any other person. And these prouysors, procurators & notaries shalbe attached by their bodies, and put in prison vntill such tyme that they haue made fine and raunsome to y^e king, & grece to the party. And after that they haue made raunsome, & grece yet after that they be deliuered they shal find suerty that they shal not sue by themselves ne by other in the court of Rome ne other places for such imprisonment & raunsome. And if those prouysors, attornies, executors, procurators, notaries may not bee founde then the exigent shalbe awarded against them and a writt shal go to take their bodies aswell at the suit of the party as of the king, and in the meane time the king shall haue the profits of the sayde benefice so by such prouysours occupied, except abbasses, priories, and other houses that hath Colledge or Couent. And that is geuen by the statute de Anno 20. E. 3. in the myddest. Looke more of thys matter in the laste Chapter of the same yere. And also in the 27. yere of the same king.

Note ye, that a Quareimpedit brought by the king, and he declared that the defendant him disturbed by prouision sued to the court of Rome, and are at issue vpon that point, & founde for the king, yet the iudgement shall not be geuen according to the statute, nor the partye shall not haue the payne that is geuen by the statute, but it is great euidence in the other writt brought vpon the statute D. 3. B. 6.

Note

Natura

Note yee, by the opinion of many, a man may haue this writ against one, as procurator against another as Councelloz, & against the third attorney, & the damages shalbe taxed seuerally. *An 36. H. 6.*

In this writ some made default, and some appeared: & for that, y^e the writ was naught it was abated, & no iudgement geuen against them that made default. And the statute is in curia Rom^a vel alibi, the which alibi is to entende in the Bishops court: for if a man bee sued there for a thing that belongeth to the common lawe, he shall haue a Præmunire *M. 5. C. 3.*

And note ye: that it hath bene the opinion of many, that if a Clerke sue another Clerk, or other man in the court of Rome, of a thing spirituall where he may haue remedy of that in his Ordinaries court within the Realme, that is within the statute, but I beleue that it is no law. If a lord in Court baron holde p^lee of dett of xl. s. or aboue which ought not to be demaunded but in the kings court, it is said that the lord shalbe in case of a Præmunire. *P. 9. C. 4.*

¶ A writ de Quare ei deforc'.

REx vic' salutem. Prec' A, quod &c. redd' B. vnum mes' cum pertiñ in N. quod clamat esse ius de rationabili dote sua vel quod clamat esse ius ad maritag. suum, vel quod clamat tener' sibi et hered' de corpore suo exeunt', vel quod clamat tenere ad terminum vite sue & quod idem A. ei deforc'. Et nisi &c.

prædictas xx. li. inde leuauerit. Et ideo tibi præcipimus, quod omnia bona & catalla prædictæ C. præter boues & affras de caruca sua, & similiter medietatem terræ & tenementorum suorum in balliua tua eidem A. sine dilatione deliberari facias per rationabile prec' & extent', tenend' vt liber' ten' sibi & assignatis suis in forma prædicta, quousq; xx. li. de prædictis xl. li. inde leuauerit, & qualiter hoc præceptum nostrum fuerit executum scire fac' Iusticiari nostris apud VV. in octab. &c. Et habeas ibi &c. Teste &c.

This writ lyeth where a man hath recovered debt or damages in the Kinges Court, and the summe of the debt or damages may not bee leuied of the goodes and catalles of hym agaynst whom the debt or damages were recovered, then he that hath recovered shal haue this writ directed to the Shirife, commaunding him that hee make deliuerie of the halfe of all the landes or tenements, and all the goodes, except Oxen and beastes of his plough.

And note, that the halfe of the said lande shalbe reasonably extended, and he shal hold the said lande, and these other goodes vntyll the said summe be leuied of the said issues & profits of the landes and goodes of the debtor, and this writ is retournable.

Note ye, that an Abbot recovered damages & prayed Elegit, and it was graunted.

Annuite was recovered, and the playntife sued the Fieri facias, and the Shirife returned that he hath nothing, and the playntife prayed Elegit, and his prayer was denyed,

Natura

for that, that he hath chosen Fieri facias. *H. 20*
E. 3. C. 10. E. 3.

And note ye, if a man without plee knowledge in court him to be holden in debt to pay at a certaine day, the conise shall not haue this Elegit, for that, that the conisor was not brought into the court by proces of the law, that is to say, by writ of debt, and so the statute of west. 2. cap. 18. is to be vnderstand. *P. 2. E. 3.*

¶ A writ of Habere facias seisinam.

REx Vicec' salutem. Scias quod cum A. in curia nostra coram Iustic' &c. petierit versus N. vnum mesuagium cum pertinentijs in P. postea veni in eadem cur' nostra & vocauit ad warratum R. qui quidem R. prædict' mes. cum pertinētijs in curia nostra &c. per defaultam amisit, secundum quod considerat' fuit in eadem curia, quod prædict' A. recuperat' inde seisinam versus prædict' N. et prædictus N. haberet de terri prædict' R. ad valēc' ten' &c. Et ideo tibi præcipimus, quod eidem A. sine dilatione plenam seisinam habere facias. Et prædict' N. de terri prædict' R. ad valentiam eorundem tenementi cum pertinentijs in loco competenti habere, & assignare seisinam facias. Teste &c.

This writ is Judicial and a writ of Execution, and lyeth where landes and tenements are recovered in the kinges Court, he that hath recovered shal haue this writ. commanding him to delyuer seisin, the writ is not retournable.

¶ A writ of Capias ad satisfaciendum.

Rex

REX Vic' salutem. Præcipimus tibi, quod non omittas propter aliquam libertatem &c. quin capias A. si inuentus fuerit in balliua tua, & cum saluo &c. Ita quod habeas corpus eius coram Iusticiari &c. tali die, ad satisfaciendum B. tam de xl. s. quos B. in cur' nostra recuperauit versus eum, quam de v. s. qui ei adiudicat' fuer' pro dampnis suis que sustinuit occasione detentionis debiti prædict'. Et habeas ibi hoc breue. Teste &c.

This writ lyeth where a man recouereth debt or damages in the kinges court, and hee against whom the debt is recouered hath no lands nor tenements, nor sufficient goods whereof the debt may be leuied, then he that recouered shall haue this writ to the Shyriſe, commaunding him that he take the body of him against whom the debt is recouered, and he shalbe put in prison vntill satisfaction be made to him that recouered.

And note, that these forwer writtes next afoze, are writs of execution.

¶ A writ of Capias vtlagatum.

REX Vic' salutem. Præcip' tibi quod non omittas propter aliquam libertatem in balliua tua, quin capias R. vtlagatum in comitatu S. tali die & anno, ad sectam B. de placito transgress'. prout &c. si inuentus fuerit, & saluo &c. Ita quod habeas corpus eius &c. tali die inde facturum & recepturum qd' curia nostra consider' in hac parte &c.

¶ A writ de Capias Vtlagatum, & inquiras de bonis & catallis.

Natura

REX Vic' salutem. Præcipimus tibi quod non &c.
 Quin per sacramentum proborum & legalium
 hominum in eodem comitatu tuo diligenter inquiras,
 quæ bona et catalla, terræ & tenementa A. de B.
 habuit in balliua tua, die & anno &c. vel vnquam
 postea, quo die idem A. vtlagat' fuit ad sectam R. E
 pro compoto suo eidem R. D. redd' tempore quo fuit
 receptor denariorum ipsius R. prout Vicec' noster
 Eboracen' Iusticiari' nostris apud VV. in Octabis
 sancte Trinitatis nunc proximè sequentè mand', et illa
 per eorum sacramentum extendi & appreciari fac',
 iuxta verum valorem eorundem. Et ea quæ per in-
 quisic' illam inueneris in manum nostram capias et
 saluo custodiri fac', et exten', & appreciationem illam
 quam inde feceris scire fac' Iusticiarijs nostris apud
 VVestm' tali die distinctè et apertè sub sigillo tuo,
 & sigillis eorum per quorum sacramentum exten' et
 appreciationem illam feceris. Ac pro eo quod idem A.
 vtlagat' vagat' & discurrit in balliua tua, in nostri et
 Coronæ nostræ præiudiciū vt accepimus, ideo præd'
 A. vbi cūquē in balliua tua, tam infra libertates
 quàm extra inueniri contigerit capias, et eum saluo
 custodiri facias, ita quod eum habeas coram Iusti-
 ciarijs nostris apud VV. ad præfatum terminum, ad
 faciend' & recipiend' quod curia nostra de eo con-
 sider' in hac parte. Et habeas ibi hoc breue. Teste
 &c.

This writ lyeth where a man hath sued a
 writ of Exigent, and he against whom
 the Exigent is awarded cometh not at the
 day of the Exigent returned, then the plain-
 tife shall haue the said writ directed to the
 Shirife of the countie (where the Exigent
 was awarded) to take the bodie of him that
 is

is outlawed. And some say that a man may haue as many writs as he wil, for that, that it is for the kinges aduantage.

¶ A writ of *Quid iuris clamat*.

REX VIC' salutem. Precipimus tibi quod distringas A. per omnia terras et catal' &c. Et quod de exitibus &c. Et quod habeas corpus eius coram Iusticiarijs nostris apud VVestm' tali die &c. ad cognoscend' quid iuris clamat in vno mesuag. cum pertinentijs in B. quod I. de T. in curia nostra concessit R. per finem inter eos faci' et ad audiend' &c. Teste &c.

This writ lyeth where I graunt the reuersion of my tenant for terme of lyfe by fine leued in the kinges court, & the tenant will not attorne, he to whom the reuersion is graunted shall haue this writ to charge him to attourne.

And note if the tenaunt for terme of lyfe claime fee simple in the tenements, and it is found that he hath no fee simple, hee shal recouer seisin of the land. C. 10. E. 3.

And he that hath fee taile shal attourne aswel as he that hath but freehold per Mettingham, but I suppose h' law be contrarie. And the proces is Summons & distres infinite.

Note ye, if land be lested for terme of lyfe, and the lessour graunt that the lessee shal not be troubled for wast, and after the reuersion is graunted to a man and his wife by fine, who bringeth a *Quid iuris clamat*, in this case if the lessee say that he is ready to attourne: sauing to him the bauntage of the deede, it is

Natura

conuenient, that the husband and the wife knowledge the deede, otherwise the lessee shal not be compelled to attorne. **¶.45. C.3**

In a Quid iuris clamat brought by an Infant, and such matter as afore is pleaded, the infant may not knowledge the deede. **¶.44. C.3.**

In a Quid iuris clamat the tenant said, that the conisor helde the same land of the kinge in chiefe, and demaunde iudgement without shewing the kinges lycence, and then the demaundant shewed the kinges lycence, or otherwise the tenat should be charged with a fine for that alienation, and then the tenant attorned. **¶.45. C.3.**

If the king graunt to me the seruice of his tenant, I may auow without attornement, for I may not haue a Per que seruitia, nor Quid iuris clamat, by Shard **¶.12. C.3.**

¶ A writ of Per que seruitia.

REX Vic' salutem. Præc' tibi quod distringas A. per omnes terras &c. Et quod de exitibus &c. quod habeas &c. tali die, ad cognoscendum per que seruitia tenet vnum mesuag. cum pertinentijs in B. quod I. de T. in curia nostra concessit R. per finem inter eos fact. Et ad audiendum &c.

This writ lyeth where I graunt the seruices of my tenant for terme of lyfe, tenant in taile, tenant in fee simple to a stranger, by a fine leuped in the kinges Court, thys tenant will not attorne to the same graunter, then the graunter shall haue thys writ against the tenant and compell hym to at=

attourne. And the proces is Summons and distress vntill the partie come.

Note ye: if the tenant holde of two in common, if the one graunt the seruices by fine the tenant shall not attourne. H. 9. C. 3.

The seruices of a tenant was graunted to the husband and the wife, and to the heires of the husband, and they brought a Per que seruitia, the tenant said that he hath acquitail of the cognisor, and sauing to him his acquitail he is ready to attorne, and the husband knowledged to him and to his heires, & so note ye, that the heire of the husbände ought to acquite the tenant after the death of the husbände in the life of the wife, for the wife may not binde her to the acquitail during the mariage. H. 5. C. 3.

¶ writ of Quem redditum reddit.

REX Vic' salutem. Precipimus tibi quod distringas B. per omnes terras &c. Et quod de exitibus &c. Et habeas corpus eius &c. tali die &c. ad cognoscend' quem reddit' reddit, exeunt de vno mes. cum pertin in N. qd I. de F. in curia nostra &c. concessit R. S. per fine inde int' eos factum & ad audiend' &c. Et habeas &c. Teste &c.

This writ lyeth where a man graunteth to another by fine leuyed in the kynges Court a rent Secke, or a rent charge goyng out of another mans lands, and the tenaunt of the land will not attorne to the grauntee, then the grauntee shall haue this writ against the tenaunt of the land to cause hym to attourne. And the Proces is as in the

U. iij

Writ

Natura

Writ next afoze .

And note ye, that these iij. writs are Iudicial, and lyeth of fine leuied in the kinges Court.

In a Quem redditum reddit the defendaunt demaunded hearing of the deede of the graunt and the plaintife shewed the fine sur conisance de droit, & he was awarded to shew also the deede, for he ought to shew title in this writ how the rent did begin. H. 30. H. 6.

And note ye, that in these thre writs next afoze, it is no plee to say, that they were not tenaunts the day of the writ purchased, but ought to aunswere if they were tenautes the day of the note leuped, for these writts ought to be brought against him that was tenaunt the day of the fine leuped. D. 8. H. 6.

¶ **A writ of Venire facias.**

REX Vic salutem . Præc' tibi quod venire facias coram Iusticiarijs nostris &c. tali die xij . tam Milites quam alios liber & legales homines de vicine de N. quorum quilibet habeat xl. s. terræ & tenement vel redditum per annum ad minus , per quos rei veritas melius sciri poterit, et qui nec A. nec B. aliqua affinitat' attingunt ad recogn' super sacramentum suum , si VV. consanguineus prædict' A. cuius hæres ipse est, fuit seifitus in maner de R. cum pertinentijs in dominico suo vt de feodo die quo obiit . Et quod idem A. in curia nostra &c. coram &c. clamat vt ius suū versus eum sicut idem A. dic', vel non sicut prædict' B. dic' . Quia tam prædict' B. quam prædict' A. inter quos inde contentio est

est, posuer se in iurata illam. Et habeas ibi nomina iura et hoc breue. Teste &c.

This writ is Judiciall and goeth out of the Record, and lyeth where two parties pleadeth and cometh to issue. s. upon the saying of the countrey, then the party plaintife or the defendant shall haue this writ directed to the Shirife, that he cause to come xij. lawfull men of the same countrey to say the trueth vpon the said issue taken. And if the enquest come not at the day of this writ returned, then shall go an Habeas corpora, and after a distres vntill they come, & when they come at the day, and the defendant challenge many of them, because that they are not sufficient to passe vpon the saide issue, then the plaintife shall haue a writ that is called Octo tales, or Decem tales, or as many as is needefull.

Note ye, that in these cases following the enquest shalbe taken by default. In auoswrie for rent seruice, the plaintife pleaded out of his fee &c. And vpon that they were at issue, and after the auoswant made default, & the enquest was taken by his default, for that, that it was the second day after the enquest ioyned, but if it were the first day, then hee shalbee distrayned to heare the Iurie. *20. E. 3.*

Note ye, that in these cases following the Iurie shalbe taken by default.

In a writ of Annuitie the defendant sayd, that at the day of the making of the deede he was within age, and vpon that they were
at

Natura

at issue, and at the day of the enquest the defendant made default, and the enquest taken by his default. H. 7. C. 3.

Note ye, that in these cases following, though that the defendant make default after the enquest ioyned, yet it shall not be taken by default, but a distres shall go to heare the Iurie. H. 18. C. 3.

In a waist the defendaunt pleadeth to the enquest, at which day the defendant maketh default, a distres shalbe awarded to heare the Iurie. An 12. C. 3. Lib. II.

Note ye, by what challenge the array shalbe quashed, and by what not.

In Assise, the array shalbe challenged, for that, that the plaintife was neere to the Bishop of D. and he that arrayed the panell is tenant to the Bishop, and by the Bysshops counsell tharay was made, and thys was holden to be no challenge, for that, that the Bishop was not partie to the plee, except that he had said that they were procured to say otherwise then trouth.

The array was quashed in assise, for that, that it was made by the Bailife that hath maryed the cousin of the plaintife, & that they haue issue. An 29. C. 3. Lib. II.

In Assise, tharay was quashed, for that, that the Shirife hath baptised the sonne & heire of the plaintife, and that was confessed by the Shirife. P. 4. C. 4.

It is a good challenge to tharay to say, that the Shirife is coun to the wife of the plaintife.

In

In Affe tharay shall not be qualshed, for that, that the Shirife hath maryed the sister of the plaintife (except he say) and so the ray made in a fauourable manner. An 16. C. 3. Lib. II.

¶ Note the causes of the challenge
for Consanguinitie.

A Jurour was challenged, for that, that he was colin to the wife of the defendant wherefoze he was drawne out of the panel. M. 3. H. 6.

If an Abbot bring an action, it is a good challenge to say, that the Jurour is vncle or brother to a Monke of the same place. C. 38. H. 6.

¶ Note the causes of a Challenge
for the Affinitie.

A Jurour was challenged, for that, that he hath baptised the sonne of the plaintyfe, and that was holden a principall challenge. D. 19. H. 6.

A Jurour was challenged for that, that the sonne of the Jurour hath married the daughter of the plaintife, and that is no principal challenge, except it be betwixt the parties selues, that the Juroz married the &c. wherefoze these triours enquired of the fauour. M. 3. H. 4.

In Attaint, one of the xxij. was challenged, for that, that he hath maryed the sister of one of the petit Juroz's wyues, and it was not allowed.

¶ Note

Natura

¶ Note the causes of a Challenge
for insufficiencie.

In a Replewin, the defendant challenged a Jurour, for that, that he was not sufficient of the freeholde, that is to say, the value of xl.s. And by the opinion of the Court, that was a good challenge, for that, that the assize was for service, but if the assize had bene made for damage feasant, otherwyle had bene. C. 4. B. 7.

In Dette of xx.li. and damages to x.li. a Juror was challenged, for that, that he may not dispende xl.s. and for that cause he was treat by the statute. C. 3. E. 4.

¶ Note the causes of the challenge
for the Hundred.

If a Jurour be challenged for that, that he hath nothing wythin the Hundred by the plaintife, and also by the defendant, he shalbe drawn out. M. 12. E. 3.

If a Jurour be challenged, for that, that he hath nothing within the hundred, the triors shall not enquire if he be dwelling within the hundred, if he have any thyng within the hundred, and not of the value. An. 19. E. 2.

In a writ of Annuite against a Parson of a Church by prescription, and alleaged seignie in the same County, where the Church is in another hundred: the thirde Jurour was challenged, for that, that he hath nothing within the hundred where the church is, for if he have nothing in the one hundredeth

or the other he shalbe swozne. **C. 11. R. 2.**

Note ye if one be swozne that hath sufficient in the hundred and after he sei that , and after he is challenged for insufficiency within the hundred, this challenge is not allowable: for that: that when he was admitted and swozne at one time it shall be intended that he hath knowledge of the matter now, & his knowledge by his alienation may not be deusted out of his parson. **H. 22. H. 6.**

And note ye: þ after that forwer are swozne of the hundred, a man shall have no challenge to say that he hath nothing within the hundred. **C. 7. H. 4. H. 29. H. 6.**

And note pee, that after that a man hath challenged the array and that found against him hee may challenge the polles. **H. 12. C. 3.**

Note ye: þ when the Jurors are swozne, the parties pray that they may have keepers, that was denied sitting the court, but after they shall have. **H. 7. C. 3.**

In attainit after that forwer of the hundred were swozne, another was challenged for the hundred, and not allowed, yet it was alledged that in the petit Jury that first passed, ought to be iij. of the hundred at the least, and by the same reason. viij. ought to be of the hundred where 24. are swozne if he that challenged the rape will challenge the the polles he shal shew the cause of the challenge every time certaine afoze that þ clerke peruse the panel. **C. 7. H. 4.**

A Jurour was challenged for fauor and
he

Natura

he was found by tryours, that he was indifferent, and afoze that he was sworne he was challenged, for that, that he hath nothing within the hundred, & not allowed.

¶ A writ of Nisi prius.

REX Vic' salutem. Præcipimus tibi quod venire facias apud VVestm tali die, vel coram Iusticiarijs nostris ad primas assisas in comitatu tuo capiend' assign' per formam statuti inde prouis. nisi die Lune &c. apud B. prius ven' xxiiij, tam Milic' &c. quam &c. vt in priori breui &c. et qui nec A. nec B. &c. ad recogn' &c. Si prædict' B. tali die & anno, vi & armis, videlicet, gladijs &c. bona et catalla sua iij. saccas lanç de valenc' xx. Marcañ apud H. in comitatu tuo, cepit & abduxit, vt dic', quia tam &c. Et habeas &c. Teste &c.

This writte is iudiciall and lyeth in case when thenquest is paneld and returned afoze the Iustices of the bank, then the one partle oz the other may haue this wryt for easement of the Countrey, directed to the Shirife, commaunding him that hee cause the men that are impanelled to come afoze the Iustices in the same Countie, and there to be determined afoze them selfe, if the matter be not so difficult that it may not be tried afoze them, for then it shalbe sent into the banke, as afoze.

And note ye, by the statut of E. 3. An. 14. cap. 15. that this wryt shalbe graunted aswell at the suit of the tenant, as at the suit of the demaundant in a wryt of Trespas, if the damages passe xl.s.

And

And note ye, that the Justices of the common bank hath power to enquire by the Fieri facias of pless moued in the kinges Court. And if the Justices of the common banke may not come, then in the same maner haue the Justices of the kinges bench power to take the Nisi prius of pless moued in the common banke.

In Detinue, the plaintiff and the garnishee were at issue, and the plaintife prayed a Nisi prius, and had, & the garnishee had other with a Prouiso. H. 19. H. 6.

Note where a man is in execution bpon a Statute Marchant, and sueth an Audita querela and are at issue, a Nisi prius shall not be graunted, for that, that the plaintife may not be deliuered out of prison. D. 15. E. 3. C. 21. E. 3.

In all cases where the king is partie, the Nisi prius shal not be graunted. H. 15. E. 3.

¶ A writ of Quake ius.

REX Vic' salutem. Scias quod Abbas de N. in curia nostra recuperauit seisinam suam versus B. de vno mesuagio cum pertinentijs in C. vt ius Ecclesie sue Sancte Marie de N. per defaultam ipsius B. per breue nostrum quare cessauit. Et quia dubitamus de fraude inter eos prelocuta, contra statutum nostrum in quo continetur de terris seu tenementis ad manum mortua deueni quoquo mod'. Tibi precipimus, quod venire facias coram nobis tali die &c. xij. &c. de vicine' pread', quorum quilibet &c. per quos &c. et qui nec &c. ad recogn' super sacra-

Natura

sacramentum suum, quale ius idem Abbas habet in prædict' mesuag. & quis prædecessorum suorum fuit inde seiscus de dominico seruic' de prædict' mes. exeunt', vt de iure ecclesiæ sue prædict', et quantum prædictum mesuagium valet per annum, secundum verum valorem eiusdem. Et interim mesuag. illud in manum nostram capias, Ita quod neuter eorum ad illud manum apponat, donec aliud á nobis inde habueris præceptum. Et quod de exitibus eiusdem mesuag. ad Scaccarium nostrum respondeas. Et scire facias capitali domino feodi illius media' & immedia', quod tunc sit ibi auditur' iurata illam si voluerit. Et habeas ibi nomina eorum &c. Teste &c.

This writte is iudiciall and lyeth in case where an Abbot or Prior or any other man of Religion bringeth a Præcipe quod reddat of lande, and the tenaunt maketh default after default, whereby the land is to be lost, then the same Abbot or Prior that hath recovered shall not haue execution of the sayd lande recovered, afoze that he sue thys writ for the king to the Escheatour of the same Countie, to enquire what right he that hath recovered hath, and if hee hath right by hys writ, then the iudgement shalbe geuen for for him, and shall haue execntion of the land recovered, and if it be found that he hath no right by his writ, but the landes were lost by collusion betwixt hym and the tenaunt, then it shalbe ordzed as is geuen by the statute of Westm 2. cap. 32. which begynneth. Cum viri religiosi &c. that the next Lord shall haue the land as his escheate, if he demaunde it

it within the yere after the inquisition takē. And if he demaunde it not within the yere, then the next Lord after him shall haue the sayde land, if he demaunde it within the half yere. And if no Lord demaunde nor clayme as afore is sayd, then the king that is chiefe lord aboue all other shal haue the sayd lande so recouered.

In a Quare impedit brought by one R. against an abbot, and they were at issue and now thenquest come, and R. was nonsuite, and the court awarded a writ to the Byshop for the Abbot without inquirie of the collusion. C. 19. E. 3.

¶ A writ de Cape magnum.

REX vic' salutem. Cape in man' nostram per visū legal' hominum de com' tuo vnum mes. cum pertiñ in N. quod B. tenuit x. die April' Añ &c. ad quorumcunque manus deuenit in ball' tua quod A. que fuit vxor C. in cur' nostra cor' &c. clamat vt dotem versus prædict' B. pro defectu ipsius B. & ideo &c. Et sum' &c. præd' B. quod fit &c. tali die respons'. et ostens. quare non fuit cor' &c. tal' die quod prædict' B. non habet aliquas terras seu ten' in balliua tua q' capi possunt in man' nostram vt testatum est in ead' curia quod præd' B. tali die et Añ &c. tenuit prædict' mes. cum pertineñ vnde præd' mes. capi pot' in manum nostram. Et habeas ibi nomina eorum per quorum visum hoc feceris sum'. Et hoc breue Teste &c.

This writ is iudiciall, and lyeth where a man hath brought a Precepe quod reddat of a thing that toucheth p'ee of lande, and the

R. s. tenant

tenant make default at the day to him geuen in the writ original, then this writ shall go for the king to take the land into the kinges hand, and if he come not at the day geuen by the graund Cape he hath lost his lande. But note ye: that at the first day he may be esloyned. And if at the day of the graunde Cape retournable he commeth, he may excuse his default, as to say, that he was not somoned after the law of the land, & that he is ready to make his law, or to say that he was in prison, or disturbed by water, & in these two last cases, issue may be taken vpon auerment of the country, & for that, the iudgement and knowledge of the imprisonment or disturbace by the water is to be tryed by the countrey, But the first case shalbe tryed, as afore is sayd.

In a Pr^o redd brought against one H. filius W. in latin, at the graund Cape the tenat said that where the writ was brought against H. sonne of W. our father hath to name Edmōd, iudgement of the writ, & it was said that the tenant hath made default in whose mouthe no plee lyeth afore that he hath saued his default but it was awarded that vpon a graund Cape the tenant shal plede that he is misnamed in abatemēt of the writ afore the default saued and that is for the mischief of the warrant.

¶ A writ of Cape paruum.

REx vic' salutem. Cape in manum nostram vnum mes. &c. quod R, in curia nosti &c, clamat vt ius suum

suum versus A. pro defectu ipsius A. Et sum per bonos sum prædict A. quod fit &c. tali die &c. ad audiendum inde iudic'. Et habeas &c. Teste &c.

This writ lieth in case where the tenāt is summoned in plē of land and cometh at the Somons and his apparance is of record, and after he maketh default at the day that is geuen to him then shall go this writ for the king. And note ye that a petit Cape lyeth after apparance and a graund Cape afore apparance.

Note ye: that in a graund Cape the tenāt is somoned to aunswere to the default & ouer to the demaundant. But in a petit Cape the tenant shalbe somoned in aunswere to the default onely, and it is called a petit Cape: for that, that there is lesse in this writ then in the graund Cape C. 8. H. 6.

In a Precipe quod reddat brought by a woman, at the petit Cape retourned the tenant sayd that after the last contynuaunce the demaundant hath taken a husband iudgement of the writ and it was adiudged, that that was no plē afore that he hath saued his default. C. 39. E. 3.

In a Formedon the tenaunt appeared vpon the petit Cape, and would haue pleded that the demaundant hath entred after p last continuance without sauing his default, but he might not, and after he pleaded a release of al the right. H. 40. E. 3.

¶ A writ of Cape ad valentiam

℥. ij.

Rex

REx. Vre' salutem, Cape in manum nostram per visum legal' hominum de com' tuo de terris A. pro defectu ipsius A. ad valentiam vnus mes. cum pertin' in I. quod E. in cur' nostr' coram iustic' nostris clamat vt ius suum versus R. vnde idem R. in eadem curia nostra coram Iusticiarijs nostris vocauit predict' A. ad warrantizandum versus eum & diem captionis Scire facias Iustic' nostris apud w. p' literas tuas sigillatas. Et sum' &c. pradic' A. quod sit coram &c. tali die responsi. et ostensi. quare non obseruauit diem sibi datum per essonium suum coram iusticiarijs nostris tali die. Et habeas ibi nomina eorum per quorum visum hoc feceris &c. teste &c.

This writ lyeth where I am impleaded of certaine landes, and I vouch to warrant another against whom the Somons ad warrantizandum hath bene awarded and the Sherife hath returned that he was summoned and cometh not at the day geuen, then if the demaundant recouer against me, I shal haue this writ against the vouchere, and I shall recouer so much in value of y' land of y' vouchere if he hath so much, and if that he haue not so much, then I shall haue execution of suche lands, and tenements that descendeth to him in fee simple or if he purchase after, I shall haue against him a resomons. And if he can nothing saye, I shall recouer to the value. And note yee that this writ lyeth afore apparance. And in the same maner lyeth the petit Cape ad valentiam after apparance.

¶ A writ of Sum' ad warrantizandum.

Rex

REx vic. sal. Sum per bonos sum A. quod sit &c. tali die ad warf w, vnum mes. cum pertin in N. quod B. coram iustic. nostris apud w. clamat vt ius suum versus eum. Et vnde I. de w. in eadem cur nostra vocauit prad. A. ad warf versus eum &c. Et habeas ibi sum. Et hoc breue teste &c.

This writ lieth where I bouche to warrant another man, then I shall haue this writ against him to the sherife commaunding him that he summon the bouchee to be afoze the Justices at a certaine day at which day if he come not, then shall goe the graund cape, and if he come and after make default then shall goe the petit cape, as is aforesaid.

¶ A writ of Sequat sub suo periculo.

REx Vic' salutem. Sum per bonos sum E. quod sit coram Iustic' nostris &c. tali die ad warf A. vn mes. cum pertin in M. quod R. coram Iustic' nostris apud w. clamat vt ius suum versus eum &c. Teste &c.

This writ lieth where a Somons ad warrantizandum is awarded. And the sherife returnes that he hath nothing whereby he may be sommoned, then shall goe sicut alias et pluries. And if he come not at the Pluries, then then shall go this writ De sequatur sub suo periculo.

¶ A writ of Champartie.

REx Vic' salutem. Præcipi tibi quod distr A. per omnes terras &c. Et quod habeas corpus eius coram Iustic' &c. ad respond' quare cum inter ceteros articulos quos dominus E. nuper rex Angl' auus
X. iij. noster

Natura

n^r ad emendac' status populi sui concessit, ordinat' sit. quod nullus minister n^r nec aliquis alius pro part' rei que est in placito habend' negotia que sunt in placito sibi assumat manutenenda, nec aliquis ius suum sub huius conditione alteri dimittat, ac prædictus R. placitum loquele que est in curia nostra &c. inter A. et E. vxorem eius petentes et A. et VV. tenentes de xx. ac^r terr' cum pertiⁿ in S. pro parte huius t^r habend. A. assumpsit manutenend' contra formam ordinationis prædict', vlt^rius facturi et recepturi quod cu^m considerauerit in hac parte,

Originale inde est tiel.

REX Iustic' suis de banco sal'. Cum inter ceteros articulos quos dominus E. quondam rex Angl' progenitor n^r ad emend' status p^li sui &c. q^d nullus minister eius nec aliquis alius pro parte rei que est in p^lito habed' &c. vt prius: ac L. p^litū loqle q^d est cor' vobis p^r b^re n^rm in^t A. petent' et B tenent' de vno mes. cū p^litū in N. prop^t p^r huius. mes. habend' iā assumpsit manutenend' contra formam ordinationis prædictæ vt accepimus: nos volentes ordinationem illam obseruari, vobis mandamus quod inspecte tenor' ordinationis prædict' vlt^rius inde faciat quod de iure et scdm formam ordinationis prædict' fuerit faciendum &c. Teste &c.

This writ lyeth where two parties are impleading, & the one of the parties geue to a straunger the halfe, or part of the lande or any other thing that is in p^loe for defend^{ing} him against the partie, then the partye greued shall haue this writ against a stra^uger.

Note yee, that it is no diuersitie whether the partie sell the lande hanging the writt and

and where he geueth the land, for that, that it is prohibited by the lawe. But a man may make a feoffment to his vse hanging the writ *M. 8. C. 3.*

The father and sonne are, and the father is impleaded, & hanging the suit he infeffeth his sonne, this is no Champerty: for by euerie law it is intended that the sonne ought to ayde his father: looke the statute *De articulis super Cartas cap. 12. C. 6. C. 3.*

Note ye, that it is said, that if a man sell his land to me, and after the land is demaunded against him by writ, and he hanging the writ make liuery and leiso to me of the same lande that is no Champertie for that, that the bargain was not made for such cause *M. 29. R. 2.*

In det it was awarded &c. that if *A.* bring a writ of *Formedon* against one *B.* in the name of one *B.* if *A.* recouer with my owne costes and then *B.* me enfeoffe: this is Champerty &c. But if *A.* refuse to take the feoffment for doubt of Champerty, & commaunde *B.* to make a feoffment to another: that is no Champerty &c. *quare. M. 42. C. 3.*

Finis.

Tabula.

A

Assisa vltime presentat.
 Audiendo & terminando.
 Admensuratione dotis.
 Audita querela.
 Admensuratione pasture.

Annuo redditu.

Assisa noue disseisine.

Attaint.

Assisa mortis antecessoris.

Auo.

Ad quod dampnum.

C

Conspiracione.

Consultation.

Compoto.

Catallis reddendis.

Catallis captis nomine, &c.

Cartis reddendis.

Consuetudinibus & seruicij.

Communi custodia.

Conuencione

Contributione facienda.

Certificatio noue disseisine.

Cessauit per biennium.

Cessauit de feodi firma.

Cessauit de cantaria.

Contra formam feoffamenti.

Contra formam collationis.

Capias ad satisfaciendum.

Cap vtlagatum.

Cap vtlagatum &c.

Cape magnam.

fol. 25

53

10

66

72

75

103

110

114

116

148

57

32

58

63

66

66

77

89

101

103

112

133

135

135

77

136

153

154

154

161

Cape

Tabula.

Cape paruum.	161
Cape ad valentiam.	162
Champertie.	163

D

Dedimus potestatem de attorñ.	20
Deceptione.	50
Debito.	61
Dedimus potestatem de fine.	102
Decies tantum.	118
Diem clausit extremum.	146

E

Error.	54
Excommunicato capiendo.	18
Excommunicato deliberando.	33
Estrepamento.	34
Errore corrigendo.	40
Ex parte talis.	61
Ex gravi querela.	87
Executione iudicij.	16
Executione facienda.	68
Eiectione custodie.	96
Escheta.	99
Eiectione firme.	121
Estate probanda.	147
Elegit.	152

F

Falso iudicio.	17
Forma donationis en le discent.	137
Forma donationis en le rem.	139
Forma donatioñ en le reñt.	141
Frisca forcia.	86
Fieri facias.	152

H

Habere facias seisinam	153
Herede	

Tabula.

Herede abducto

93

I

Ingressu utrum

35

Indicauit

31

Ingressu ad terminum

121

Ingressu dū fuit compos

123

Ingressu dum fuit infra etatem

123

Ingressu super disseisinam in le per

126

Ingressu super disseisinam in le quibus

125

Ingressu sine assensu capli.

128

Intrusion de garde.

90

Ingressu sur cui in vita.

128

Ingressu causa matrimonij &c.

130

Ingressu cui ante diuorcium

130

Intrusion

131

Ingressu ad cōmunem legem

132

Ingressu in casu prouiso

132

Ingressu in casu consimili.

133

Ademptitate nominis.

149

L

Libertate proband.

46

M

Monstrauerunt

14

Moderata mia.

48

Medio

81

Maritagium forissactum

91

N

Ne intuste veres

15

Non omittas

44

Ne admittas

27

Natiuo habendo

46.47

Documento

108

Nisi prius

159

Procu

Tabula.

Documento paruo	108
Nuper obiit	117
P	
Precipe in capite	13
Protedio cum clausula volumus	22
Protedio cū clausula nolumus	24
Prohibitio	30
Perambulatione facienda.	74
Postdisseisinam	107
Partitione facienda	142
Premuntre facias.	142
Per que seruitia.	155
Q	
Quare impedit	27
Quare non admisit	28
Quare incumbavit	29
Quod permittat	69
Quo iure	71
Quare eiecit infra terminum	120
Quare ei deforzeat	144
Quid iuris clamat	155
Quem redditum reddit	156
Quale ius	160
Quo minus	147
Quo warranto.	149
R	
Recto patens	2
Recto patens en Loundres	4
Recto de dote	5
Recto de dote vnde nihil	6
Recto de rationabili parte.	10
Recto clausum secundum &c.	11
Recto quando dominus remisit	16
	Recto

Tabula.

Recto de aduocatione ecclesie.	24
Replegiare de homine.	41
Replegiare de auerijis.	42
Rescussa.	53
Rationalibus diuifis.	74
Rauishment de garde.	92
Reddisseisin.	106
Recto fur disclaime.	150
S	
Si recognoscat.	68
Secta ad molendinum.	68
Secunda superoneratione.	73
Scire facias.	151
Suam ad warrantizandum.	162
Sequatur sub suo, &c.	163
T	
Transgt.	48
V	
Ut laica remouenda.	33
Uasto.	36
Uenire facias.	156
Ualoz maritagij.	90
VV	
Warrantia Carte.	145
Withernam.	45

CFMS.

*Ex L. A. A.
Pages 145 - 152 wanting*

¶ Imprinted at London
in Fleetestrete within Temple
Barre at the signe of the Hande and
Starre by Richard
Cottill.

Cum Privilegio ad
imprimendum solum.